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THE PRESIDENT'S PAGE

This year marks a real milestone in the life of the Association. We are entering upon the fiftieth year of its existence, and in 1956 we are celebrating its Golden Jubilee. It would be well for us to give some thought, during the year, to how far we have come, and where we are going.

Most of us tend to become self-satisfied and complacent. It is difficult to maintain a high degree of intellectual curiosity and receptiveness to new ideas; it is difficult because it is hard work. But new ideas are being developed in the library field all the time. The report of the Association's Special Committee to study the application of mechanical and scientific devices to legal literature will be an eye-opener to some of us. The general sessions of the 1955 convention of Special Libraries Association concerned themselves with automation, as might be expected for a meeting held in Detroit. Much of the ferment going on in librarianship springs from the needs of the technical and scientific librarians. Perhaps a great deal of their enthusiasm and interest is based on necessity. But we must not assume that these new methods and devices can have no place in our own libraries. Many of the gadgets, if complicated and expensive electronic devices can be so described, are not perfected. A West Coast scientist, speaking on photoscopic storage and retrieval of information, said that it was possible to store millions of bits of information on a small disc. Theoretically this information is retrievable, although he admitted that this problem had not been completely solved. Perhaps some day it will be. In the meantime we ought to be alert to all innovations in library techniques and procedures, and study their application to our own problems and libraries.

This year could well be one of major accomplishment for this Association. Steps may be taken toward the revision and cumulation of the *Index to Legal Periodicals*. The indexing of foreign legal literature will undoubtedly be explored. Expansion of our membership is certainly possible. Bibliographic enterprises ought to be gotten under way. But none of these things can be done without the interest and support of the members, and a willingness on their part to participate in the activities of the Association. If the members will respond to calls for service, advice and opinion, then this year ought to be truly a Golden Jubilee.

CARROLL C. MORELAND

John G. Marvin and the Founding of American Legal Bibliography

by HOWARD JAY GRAHAM, *Bibliographer*
Los Angeles County Law Library

It is a rare occurrence, fortunately, for a leading bibliographer to go unidentified by his successors. Law librarians must wince, therefore, that this is the case—that almost nothing has been known of the compiler of one of their prized professional tools—the co-founder, indeed, of their profession in the United States.

All fortunate enough to own and use *Legal Bibliography*¹ (Philadelphia, 1847) "by John G. Marvin, counsellor at law," appreciate its extraordinary value. The full descriptive title is "Legal Bibliography, or a Thesaurus of American, Irish, and Scotch Law Books. Together with some continental treatises. Interposed with critical observations upon their various editions and authority. To which is prefixed a copious list of abbreviations. By J. G. Marvin, counsellor at law." Scope and zeal are pointed out by a title quotation from Ovid on the value of the old writings, and one from Lami on the importance of knowing the lives, times and best editions of whatever authors one studies.

The massive 800-page volume thus introduced lists in rough alphabetical order, with full bibliographic information, and many descriptive and critical notes, nearly 5000 titles, com-

prising in all perhaps 8000 volumes. Bearing in mind that in the year 1847 there were not more than three or four law libraries in the country that approached this size²—and a potential market of perhaps a hundred or two hundred copies of his book³—it is plain that Marvin's bibliographic un-

2. Ranking law libraries in 1847 apparently were:

1. Harvard, 10,000 volumes including 2000 duplicates (See *infra* note 60).
2. New York State Library, Albany, slightly smaller (See *its* CATALOG, 1855 [1856] Preface: law holdings 9900 volumes in 1850).
3. Law Library of Congress, estimated 6,000 to 7,000 volumes (L.C. had 2011 volumes of Law in 1832 and 4174 volumes in 1839; see Johnston, *op. cit.* *infra* note 74 at 515-19; the Law Section of the 1849 CATALOG, 139 p., was forty percent larger.

Pennsylvania State Library, Harrisburg, had approximately 4,000 volumes in 1839 (see *its* CATALOG, 1878, Preface); the Social Law Library of Boston, 4077 volumes in 1849 (see *its* CATALOG, 3d ed., 1865, Preface). Other state libraries, Yale, New York University, and the Baltimore and Philadelphia Bar collections presumably were smaller. Judge Esek Cowan's 2,800 volume library was rated one of the best in private hands in 1845 (7 MO. LAW REP. 495) T. & J. W. JOHNSON'S LAW CATALOG, 1850 (*infra* note 12) is a fascinating record of dealer offerings and prices of a century ago.

In 1845 Wallace noted that a complete set of Anglo-American reports then totalled 1608 volumes (See THE REPORTERS, 3d ed. [1855] p. 25) as against 150 volumes for all England in 1776. The latter figure doubtless was low.

3. FRIEND, ANGLO-AMERICAN LEGAL BIBLIOGRAPHIES (1943) p. 18, records that John W. Wallace ran off a first edition of forty copies of his essay *The Reporters* (originally published in 2 AM. LAW MAG. 271-345, 1844). A second edition appeared in 1845. (Friend 273); the 3d in 1855 (Friend 272).

1. Hereafter cited LB, or MARVIN, LB.

dertaking was hardly less remarkable than its accomplishment. Yet not only was this the first work to embrace the whole subject field⁴—and to do so when there still was no comparable work in England⁵; it remains, after a century, especially for older treatises and common law materials, one of the

4. WALLACE, *THE REPORTERS*, *supra* note 3, rated by Friend (p. 22) as the first American work of legal bibliography *per se*, was limited in scope; and not until the third ed., 1855, was the coverage reasonably complete. His own tributes to Marvin's work (see *infra* notes 5 and 84) were generous and revealing.

Prior to Marvin, HOFFMAN, *COURSE OF LEGAL STUDY* (1817); (2d ed., 1836) 2v. p. 624-71 (Friend 143, 142 respectively) and [GIBBS] *JUDICIAL CHRONICLE* (1834) 55 p. (Friend 101) were the standard bibliographic aids in the United States. See also Wallace's list of early American bibliographic works in *THE REPORTERS*, 3d ed. 1855, p. 6-7.

5. For a brief account of the early development of legal bibliography in England, see Friend p. 1-17; Cowley, *A Century of Law Booksellers in London, 1650-1750*, 157 *LAW TIMES* 347-9 (1924). Bassett, Walthoe, Worrall and Brooke were all law book dealers, as was Clarke. (See Friend 17-19, 276-278a, 297, 59-60). In the 1840s CLARKE, *BIBLIOTHECA LEGUM* (1819) 3v. and BRIDGMAN, *A SHORT VIEW OF LEGAL BIBLIOGRAPHY* (1807) (Friend 38), still were standard.

For Wallace's sharp criticism of England's tardiness and laxity in this field, see *THE REPORTERS*, 4th ed., 1882, p. 2, quoted by Friend p. 2; also Wallace's letter to Marvin dated March 21, 1847, printed in *JOHNSON'S LAW CATALOG*, 1850, p. 82. After thanking Marvin for a presentation copy, and complimenting him highly on the work as one "creditable not only to the author, but also to the Profession of the country," Wallace added: "The capacities needed for your enterprise will be attested to by the fact, that of the vast number of persons in England who of late have sought professional distinction through the press, not one for forty years has undertaken a work upon Legal Bibliography. Bridgman's was the production of a reputable lawyer, and for nearly a half century has been regarded in England as the best work on the subject. How immeasurably superior your own work is to his, or to any, not only in extent of title but in fulness of criticism, will be apparent to anyone who makes examination of them all. And without incurring the reproach that has sometimes been brought against our countrymen, I think that we may all feel satisfaction with your labors, and be gratified by the fact, that in this nice department of the law, hitherto regarded as more congenial to the taste of the Profession in England than to ours, incomparably the best book extant should be the production of a lawyer of the United States."

most interesting and serviceable. Of this there could be no better evidence than the work's reputation in England. It often has been praised by scholars as eminent as Professor Winfield.⁶ Many annotations in the first two volumes of the Sweet and Maxwell *Legal Bibliography* (1925-32) were lifted verbatim from *Marvin*.⁷ Virtually all surviving copies, having found their way into institutional libraries at prices ranging from \$30 to \$60—with the English quotations generally higher than American—the book was photoreprinted in 1953⁸—a rare tribute in itself for a 106-year old work.

Marvin's merits are obvious at once. Full title, edition, number of volumes, size and imprint are given in consistent form for every entry. The author-title list is in one alphabet. Court reports are entered under the names of the reporters. There is an excellent forty-page subject index, with discriminating subject headings and adequate cross-references. For classics and major works the descriptive and critical notes range in length from a few lines to several pages. Compactly set in small type, these often are models of concise characterization.⁹

6. CHIEF SOURCES OF ENGLISH LEGAL HISTORY (1925) p. 39: "Somewhat antiquated, but still useful." Cf. WARREN, *HISTORY OF THE AMERICAN BAR* (1911) p. 332 note 1.

7. Often without adequate acknowledgment or use of quotation marks. Cf. "Cowell, John. Law dictionary," Marvin p. 233-234, with the same entry, 1 SWEET & MAXWELL p. 4-5. In numerous similar instances, "Marvin, Leg. Bib." is the last citation of a series in the SWEET & MAXWELL annotations; doubtless an intended general notice that in such instances the note had been taken from Marvin was later omitted by oversight.

8. Buffalo, Dennis & Co. \$35.

9. See Klingelsmith, *infra* note 19, at 74; and Marvin's notes on "Atkyn's Reports" (p. 76) and "Bacon's Abridgment" (p. 85); "Blackstone" (p. 122) etc.

Book reviews and authorities are extensively quoted, and always, at the end of each note, exactly cited. Indeed, it is this feature which gives the book perhaps its greatest value today. For subjects and materials before 1847 it is an indispensable supplement to Jones and the other indexes to legal periodicals. Anyone seeking a desk shortcut to citations of the original reviews of Story's or Kent's works, to Lord Mansfield's opinion of Blackstone, to the bibliographic history and criticism of Fearne's *Contingent Remainders*, or anyone having need of an annotated list of early Pennsylvania local practice materials, can readily find them here, by reference to the logical headings. Occasionally Marvin's comments are pedestrian or too fulsome of praise; but most are shrewd, well-knit evaluations, based on cited authority, wide reading, and research; many reveal a critical gift.

One senses at once that here was a scholar, a man of broad knowledge, ardent spirit, and what is rarer, a gift of carrying to execution a project involving immense drudgery as well as sound legal and library training. Added to all this were an occasional light touch and lively historical sense. Even the table of abbreviations is liberally sprinkled with footnotes; some are of exceptional interest, as for example, that summarizing two theories of how "ff," by grotesque corruptions, became the accepted old abbreviation for the Pandects or Digest.¹⁰

Yet Marvin scorns the collector's pedantry as much as he loved learning and teaching: "Whoever seeks in this volume for book rarities or editions

characterized by some peculiarity which does not give them intrinsic value, will be disappointed. My object has been to notice only the best editions, to afford a practical rather than a curious manual"¹¹—in short, to facilitate scholarship and promote systematic study of law. To have undertaken and successfully accomplished this double task long before there could be any possibility of financial return, is itself proof of extraordinary idealism and self-discipline. One doubts moreover, whether even T. and J. W. Johnson, the leading Law Booksellers at 197 Chestnut Street, Philadelphia,¹² or the book's printers, King and Baird,¹³ 9 George Street, of the same city, assumed the complete risk of handsetting, printing and proofreading the more than 400,000 words of text. Marvin possibly was forced to subsidize publication, and scarcity of the original edition today may well be due either to a small printing or to eventual destruction of a substantial remainder.

Of the volume's preparation nothing has been known beyond the details in Marvin's preface:

With regard to the Law books of the United States, I trust this volume will be found to contain a tolerably complete list. For this department of the work, in addition to the resources afforded by the ample Library of the

10. P. [v].

11. See their LAW CATALOG, 1850 (lii, 144 p.) a fascinating, carefully prepared list which quoted extensively throughout from Marvin's annotations, and from correspondence of leading lawyers endorsing various works—Marvin's own, for example. (*id.* p. 80-84; see also *infra* notes 93-96, 99)

Possibly Marvin's work was so useful to the Johnsons in their business, particularly in the preparation of their new 1850 CATALOG that they stood the full publishing costs. Yet on a list price of \$5.50 a copy the project could scarcely have been profitable otherwise.

12. See verso of title page.

Dane Law School, Gentlemen in various States have kindly rendered me material assistance, to whom I am under very great obligations, and without which many books of a local character would not have been included. While petty jealousies and differences of opinion prevail among members of other Professions, those of the Law are happily united, and make it a common cause to assist each other in advancing their common studies, and pursuits, and the instances are extremely rare where this reciprocal feeling does not exist.¹⁴

He acknowledged further indebtedness to

the Honorable Edward Everett, President of Harvard University, and . . . Dr. Harris, Librarian . . . [for] the free use of the College Library of this venerable seat of learning . . . To J. W. Wallace, Esq. I am also indebted for some notes and references, and for access to the Library of the Law Association of Philadelphia, of which this gentleman is Librarian.¹⁵

Marvin's preface shows too, that he hoped for a warm reception for his work; corrections and additions were solicited, he explained, "that they may be used in a future edition, provided the present should be sufficiently approved of, to require another." A sanguine hope, surely, in 1847! Yet also mark of a truly Faustian quest for knowledge and perfection.

The conclusion of the preface reveals still another ambition, also unrealized:

It was my intention to have inserted an Introduction explanatory of the judicial adoption and authority of Foreign works in our Courts, with some account of the Legislation upon the subject, and the authority of the Federal Court and State Reports in each other's tribunals, but the volume has already attained a size beyond the original estimate, and I do not feel at liberty to increase its expense by additional matter. "This is a vessel I confess ill and weakly built, yet doth it adventure into the vast Ocean of your censures; Gentle-

14. P. [v]-vi.

15. P. vi.

men, who are Antiquarians, Lawyers, and Historians."

Feb. 13, 1847.

J.G.M.¹⁶

Who, then, was this dedicated idealist, apparently so well qualified to help found American legal bibliography? The Library of Congress Catalog gives only his initials, neither date of birth nor death; yet it reveals his connection with two more works testifying to active scholarship: In 1843, Marvin edited the American edition of Sir James Mackintosh's *Discourse on the Study of the Law of Nature and Nations; together with a List of Works upon International Law; with a sketch of the Author's Life*.¹⁷ Five years later saw publication of the American edition of Selwyn's *Law of Nisi Prius*, "with a supplement by J. G. Marvin."¹⁸ Marvin obviously ranged the whole field of law and jurisprudence.

Beyond these meager facts, and what was evident from his own preface, a distinguished law librarian, Mrs. Margaret C. Klingelsmith, endeavoring to pay him tribute in 1923,¹⁹ met baffling frustration. Unable to learn even the date of his birth or death, or where he was buried, she concluded Marvin to be "a true immortal . . . his life is a sealed book, but his book is a revealed life"—and from it she assembled material for her graceful appreciation.

There is a professional mystery—indeed, scandal here. How did a man

16. P. vii.

17. Boston, Pratt & Co., 1843; see *infra* notes 54-55.

18. An 1848 edition is listed in CALIF. STATE LIBRARY, LAW DEPT. CATALOG, 1886; an 1853 edition is listed in ASSOC. BAR CITY OF NEW YORK CATALOG, 1892. For evidence of other editorial work, 1848-1855, see *infra* note 120.

19. J. G. Marvin: *An Appreciation*, 15 L. LIB. J. 71 (1923).

of these attainments, when legal bibliography was just beginning, and when many scholars attained instant recognition, complete and publish an 800-page bibliography, and edit two other works, then disappear seemingly without a trace? John W. Wallace, author of *The Reporters*,²⁰ to whom Marvin acknowledged obligation, and of whom he was in many respects the peer and co-worker, advanced to the reportership of the Supreme Court of the United States, and to other honors. Yet of Marvin, books and biographers are silent!

One clue was found in the opening paragraphs of the third edition, 1855, of *The Reporters*. There Wallace referred to "the *Legal Bibliography* of Mr. J. G. Marvin, of California, published since the second edition of this tract appeared."²¹ So in 1854 or 1855 Marvin was in California: A legal bibliographer in the Gold Rush!

With this lead, and the hypothesis that *Legal Bibliography* was compiled while Marvin attended Dane Law School, it has been possible to piece together an outline of his career²²—first

20. 4th ed., 1882 (Friend 271) see also *supra* note 3. For biographical data see DICT. AM. BIOG. and Friend p. 21.

21. P. 67.

22. Grateful acknowledgement is made to Mr. David Ferris of San Diego who is preparing his doctoral thesis at the University of California, Los Angeles, on Marvin's Superintendency of Public Instruction in California, 1851-53; and to Mr. James Abajian, Librarian of the California Historical Society, San Francisco, for informing Mr. Ferris and me of our mutual interest in Marvin just as our drafts based on independent research were begun. An opportune merger of two sets of complementary sources resulted: Mr. Ferris' two scrapbooks and the Harvard Law School notebook (obtained from Marvin's heirs) and my collection of Marvin correspondence and notes on his bibliographic work and journalism. Another article, titled "A Legal Bibliographer in the Gold Rush", will summarize Marvin's life in California. Mr. Ferris' thesis, "John G. Marvin, Founder of Cali-

at Harvard, then in Philadelphia, finally as the tuberculous Argonaut who became California's first Superintendent of Public Instruction. Marvin may have come West to recover health broken by overstudy. He died in Honolulu, December 10, 1857,²³ in his forty-second year. But long before that he had won a proud name in the new State. He was successively one of the judges of the original Court of Sessions; editor of the weekly *Sonora Herald*; quartermaster and major of the Mariposa Expedition in the Indian Wars; founder of the California public school system—a man of idealism and integrity who won the universal respect of his fellows and their affectionate title of "Judge." Best of all, evidence suggests how Marvin managed to prepare his *Bibliography*, the conditions that favored it, the causes that contributed to the rapid professional progress of law libraries and law librarianship in the 1840s.

II

Little is known of John Gage Marvin's early life. He was born in 1815, second of three sons of William and Lucinda Marvin, of Bradford county in northeastern Pennsylvania.²⁴ There, in the vicinity of Le Raysville, presumably, he spent his boyhood and youth. At the age of 23 he enrolled in the classics curriculum at Wesleyan University, Middlebury, Connecticut.²⁵

fornia's Public Schools", will deal extensively with Marvin's entire career, particularly his contributions to public education.

23. San Francisco Alta California, January 9, 1858, p. 3, c. 9; DAVIS, HISTORY OF POLITICAL CONVENTIONS IN CALIFORNIA (1893) p. 641.

24. See HISTORY OF STANISLAUS COUNTY, CALIFORNIA (W. W. Elliott & Co., 1881) p. 165.

25. Information supplied to David Ferris by Wesleyan University Alumni officials.

At the end of his third year (1840) he left college for the principalship of Athens Academy, near his family home. For the next year and a half he headed the faculty of four that shepherded 130 tuition students—among them young Stephen Foster, whose first composition, the *Tioga Waltz*, was played at commencement, 1841. John Marvin taught Latin and Greek; his younger brother, Edwin, English. Cultural endeavor was highly prized, and also exemplified: Over the pseudonyms *Viator* and *Tenax*, John contributed columns of self-conscious prose and French translation to local "literary" papers edited by Edwin. In their leisure the two brothers studied law. John also served as curator of a local geological collection.²⁶

Abruptly in mid-year, January, 1842, the young principal resigned. The next few months were spent in a tour of New England and possibly Europe. *Viator* kept up his reports for *The Athenian*: A gala alumni day at Yale; a minor skirmish in the Dorr Rebellion witnessed on the campus at Brown University; a description of Bunker Hill monument and of the sculptures in the Athenaeum.²⁷ Presumably the interlude was one for bearing-taking or for health's sake; it ended decisively, August 20, 1842. On that day Marvin enrolled at Cambridge for the first of seven terms at Harvard. He was granted three months credit for previous study. The brief

first entry in his notebook suggests the hopes and tension:²⁸ "This morning the students at law met in the Library with Story and Greenleaf . . . Cases were also given out for the Term to be mooted. Story gave us some excellent advice relative to professional deportment."

The Harvard years were years of exciting growth. Already the Law School²⁹ was a national institution, housed in its own two-storied porticoed brick building, the gift of Nathan Dane, member of the Continental Congress and compiler of the first digest of American case law.³⁰ The 150 students came from all sections, and in Marvin's day included, besides various future governors and judges, Rutherford B. ("Rud") Hayes,³¹ President of the United States, 1877-1881, and Francis Parkman, the future historian, who like Marvin was destined shortly to journey westward.³²

The poles of this unique educational magnet on the Charles were Professors Joseph Story and Simon Greenleaf. Since accepting the Dane professorship in 1829, Justice Story had given himself without stint and

28. John G. Marvin, Harvard Law School *Notebook*, 1842-44 in possession of Mr. David Ferris; (hereafter cited as *Notebook*), entry dated August 29, 1842.

29. For the history of Harvard during Marvin's years, see WARREN, HISTORY OF HARVARD LAW SCHOOL (1908) 3v., hereafter cited WARREN, HHLS; and CENTENNIAL HISTORY OF HARVARD LAW SCHOOL, 1817-1917 (1918) hereafter cited as CHHLS.

30. DANE, GENERAL ABRIDGMENT AND DIGEST OF AMERICAN LAW, WITH NOTES AND COMMENTS. 9v. (1823-29) and APPENDIX (1830).

31. For lists of Marvin's classmates 1842-46, see WARREN, HHLS, v.3, p. 23-41. Hayes entered in August, 1843 and left in January, 1845. See entries in his DIARY AND LETTERS (1922-26) 5v.; ch. 6, v. 1, p. 107-162 cover his term at Harvard.

32. See his THE OREGON TRAIL (1st ed., 1849) Parkman and Marvin were both members of the class of 1846, according to 3 WARREN, HHLS p. 40.

26. Unless otherwise attributed, statements in this paragraph are based on clippings in 1842-1846 sections of John G. Marvin's *Scrapbook*, 2 v., largely newspaper clippings arranged in rough chronological order, in possession of Mr. David Ferris, San Diego; hereafter cited as *Scrapbook I* or *II*.

27. *Id.*

had seen school enrollment multiplied by eight. Graduate training in law now was a reality, not only at Harvard, but at Yale and New York University.³³ Between terms of the Supreme Court, the Justice lectured on pleading, equity, commercial and constitutional law. He also worked on that series of commentaries³⁴ which still ranks as one of the miracles of legal scholarship, and which certainly was one of the decisive influences that unified and nationalized American law in days of sporadic reporting and dangerous sectional cleavage.³⁵ As a teacher Story's personality outshone even his industry and learning. His kindness was proverbial. His lectures, though discursive and eloquent—even demonstrative—were never pedantic. His brilliance registered rather as radi-

33. Harvard: see *supra* note 29; For the early history of Yale Law School and Law Library, see HICKS, *YALE LAW SCHOOL: THE FOUNDERS AND THE FOUNDERS' COLLECTION* (Yale Law Library Publication no. 1, 1935). Judge Samuel J. Hitchcock occupied a position at Yale, 1824-1845, similar to Story's at Harvard. His library of 2260 volumes became the major part of the Founders' Collection (*id.* p. 33) but was not acquired by Yale until 1846, after his death, for about \$4200. (*id.* p. 24-47). Professor Hicks' account is continued in *YALE LAW SCHOOL: FROM THE FOUNDERS TO DUTTON, 1845-1869* (Yale Law Library Publication no. 3, 1936) especially p. 55-62.

34. Benjamin F. Butler in 1835 inaugurated at New York University the first modern law school with a comprehensive curriculum, a faculty of experts in different fields, and a three-year program." Niles, *Dedication of Arthur T. Vanderbilt Hall*, 27 N. Y. U. L. Q. REV. 3 (1952).

35. For a convenient list of Story's writings, 1805-45, with later editions, see CHHLS p. 323-328; also Marvin's annotated list, LB p. 668-74.

35. On Story's role, and the unifying influence of American law teachers' "Doctoral Writing" in general during this period, see POUND, *THE FORMATIVE ERA OF AMERICAN LAW* (1938) ch. 4. Dean Pound's thesis that Kent, Gould, Story, Greenleaf and other early treatise writers fixed reception of the common law, conveniently digested and restated it for courts and legislators, thus forestalling premature codification while salvaging English equity for American use, and giving a needed overall unity and uniformity in the face of inadequate

ance, his intellect as reason. Judge, commentator, teacher, his reputation and influence now rivalled Blackstone's, as his learning did Coke's. Always frail in health, he still was geniality personified, quick, birdlike in movement, with spritely eyes peering over small-rimmed glasses, addressing his classes as "Gentlemen," and shaming even the students by his zeal and energy.³⁶

Simon Greenleaf,³⁷ Royall Professor of Law since 1833, was Story's opposite both in temperament and in method. Reserved, thorough, incisive—as celebrated as Story for clear statement, yet almost painfully deliberate—he rarely digressed, hewed close to the point, plied listeners with questions, generally was as partial to the common law as Story often was to the civil. Twelve years as reporter for the Maine Supreme Judicial Court, 1820-1832, had made him a master technician. As a young lawyer, humiliated by loss of a case in which he unsuspectingly relied on obsolete authority, he characteristically conceived and compiled a remedy—*A Collection of Cases Overruled, Doubted etc.* (1821)—the ancestor of every American citator.³⁸ In

digests and reporting, is itself a tribute to Marvin's insight and accomplishments as a bibliographer. Law, to be usable, must be accessible. Marvin's book organized to the full the resources of early American law libraries and legal scholarship.

36. Professor Commager's forthcoming biography of Justice Story will redress a century of neglect. Meanwhile, in addition to works cited *supra* note 29, see STORY, ed., *LIFE AND LETTERS OF JOSEPH STORY* (1851) 2 v.; *MISCELLANEOUS WRITINGS OF JOSEPH STORY* (1852); Scholfield, *Joseph Story* in *3 GREAT AMERICAN LAWYERS* (1907, 8 v.) p. 123 (Set cited hereafter as GAL).

37. See *DICT. AM. BIOG.*; CHHLS p. 215-219, 304-305; WARREN HHLS ch. 23-29.

38. See Marvin's annotation, LB p. 348; and the Story-Greenleaf correspondence during compilation in 1819, 1 STORY, *LIFE & LETTERS* p. 327-330.

1842, the year of Marvin's entry at Harvard, Greenleaf had just published the first volume of his *Treatise on Evidence*, a work that gained immediate recognition, and one for which Marvin doubtless chased many citations for the second volume, published in 1846.³⁹

The third member of the faculty was Charles Sumner,⁴⁰ now 31 and an ambitious Boston lawyer and radical orator, soon to be leader of the Massachusetts abolitionists. Sumner was tremendously learned, but vain, effete, and inclined toward pedantry. Even so, and despite their dismay at his growing radicalism, Sumner still was the Story-Greenleaf choice for a third professorship. Opposition proved too strong, however, and he served merely during Story's absences, of which there were several during Marvin's years.⁴¹

Instruction, though not yet dominated by the rigors of the case system, still was broad and thorough.⁴² Courses had increased steadily in number and content since the early preoccupation with Blackstone. The general plan, however, still was to work systematically through a textbook, with lectures, collateral reading and discussion of rules and principles.⁴³ Story's and Sumner's methods were more informal than those of Greenleaf, who appears most nearly to have approached the modern case system.⁴⁴ Story's attach-

ment to the civil law made for strong historical, comparative and jurisprudential emphasis.⁴⁵ Nothing was cut and dried. New texts continually supplanted old; examinations—written and oral—were frequent. Weekly “moots,”⁴⁶ visits to Justice Story's circuit court and to the Massachusetts courts to hear leading cases and counsel, supplemented the training in procedure. Assigned essays and debates afforded added drill in expression. Then as now, Harvard was an exacting and exciting place.

III

Marvin kept an eighty-six page notebook during his student years, 1842-44. The title and entries well convey the personal, didactic instruction: “Dicta of Justice Story, Prof. Greenleaf, D[itt]o Sumner.”⁴⁷ First term schedule: Greenleaf: Evidence & Blackstone, Mon., Wed., Fri., 9-11; Story: Marshall on Insurance & Equity, Tues., Thurs., Fri. 11-1.

Dec. 5, 1843: Greenleaf: Law is the best study of moral philosophy. I know of no study more ennobling . . . May the gladsome light of jurisprudence shine upon you.

Jan. 4th, 1844: Story: Judge Story gave us his final lecture for the term . . . warned . . . against engaging in politics till we are 40 . . . advised us to keep close to the profession. He observed that he spent some of the best years of his life as a politician, which he deeply regrets. He said if we could see the world as he did our ardor would be dampened, our aspirations checked. It is well for youth that they look upon the bright side of things, hope much, and see nothing in perspective but success; but ere we have passed the meridian we see that our hopes are, like the golden apples, deceptive. Many of our plans are day dreams. Mar. 11th 1844. Story: The only thing that can

39. For bibliography and editions of Greenleaf, see CHHLS p. 304-305.

40. See DICT. AM. BIOG.; CHHLS p. 265-267; PIERCE, MEMOIR AND LETTERS OF CHARLES SUMNER (1877-1893) 4 v.; 2 WARREN, HHLS p. 8-9.

41. 2 WARREN, HHLS p. 11, 25; and notes in Marvin's Law School Notebook, p. 17.

42. See WARREN, HHLS, ch. 25-26, 29; CHHLS ch. 2 “Instruction,” and p. 15.

43. *Id.* especially WARREN p. 85-94.

44. *Id.* p. 50-69; also *supra* note 37.

45. WARREN, HHLS, ch. 26, “Reminiscences of Story,” especially p. 26-30.

46. *Id.* ch. 27, “The Moot Courts.”

47. See *supra* note 22.

preserve us is the fearless administration of the law. Where judges are elected annually the decisions are not worth much, as a general rule. The judge who only looks at the bench as a stepping stone to something ulterior is swayed though it may be silently; his office and duties require an undivided attention.

Sandwiched between such entries are Marvin's notes of legal rules and of moot court cases, drafts of debating speeches, and essays written for class assignment. One essay dated March 7, 1843, while antislavery agitation in Boston was at its peak, was sternly anti-abolitionist and pro-Southern.⁴⁸ Another, entitled "Ought the United States to Assume the State Debts?"⁴⁹ argued in the negative. Marvin contended that revenue from public land sales could not, at the then current rates and prices, amortize the proposed \$200 millions of state aid. Both essays reflected strong nativist, anti-Catholic, anti-British views common in the Forties.

Yet student life was not all in so serious a vein:

Feb. 29, 1844: Last evening . . . attended a party at Nathan Appleton's where were the Governor [Marcus Morton] and heads of departments, Professors Sparks, Felton, Longfellow, Sumner, and many other distinguished men . . . Having drunk rather freely of the excellent wines . . . found myself minus much of a lesson, but passed a tolerable examination notwithstanding.⁵⁰

Marvin's first term expenses, carefully itemized, totalled \$165.⁵¹ The sum included \$50 tuition, \$67.50 board and room for 21 weeks, \$10 special tuition in French and Spanish. Zest

48. *Notebook*: "Is Our Government Tending to Consolidation or Disunion?" For backgrounds, see WARREN, *HHLS* p. 24-25.

49. *Notebook*.

50. *Id.*

51. *Id.* p. 16.

for languages presently led to translation of *El Bastardo de Castille*,⁵² a Gothic tale by Don Jorge Montgomery, Irish-born employee of the American consulate in Madrid, and translator of Washington Irving. The 82-page rendering was published by J. Sly of Boston in 1843. He found it "refreshing," Marvin noted in a flowery preface, occasionally to desert the "boundless ocean of professional studies" for "the limpid lakes and . . . rills of literature."⁵³ This same year he also edited *A Discourse on the Study of the Law of Nature and Nations*,⁵⁴ by Sir James Mackintosh. Editorial contributions included a list of the "more reputable works on international law," a biographical sketch of the learned Scottish author and reformer, and a translation, in footnotes, of the Latin and Greek quotations of the original—the latter an act of academic Samaritanism for which Marvin was taken severely to task by the pedantic Sumner!⁵⁵

Plainly John Marvin was a ranking and mature student—not brilliant, but zealous, methodical, ambitious. Requirements for his LL.B. were completed in June, 1844.⁵⁶ Presently he

52. Translation retitled *BERNARDO DEL CARPIO*. (Boston, Sly, 1843). Copy in Huntington Library.

53. *Id.* Preface.

54. *Supra* note 17. Justice Story was a great admirer of Mackintosh; this project may have been undertaken at his suggestion. The preface was dated "Cambridge, October 20, 1843." An undated note presenting a copy of "this discourse" to Sumner and asking the favor of "a few lines relative to [it] for the Law Reporter if it is worth noticing," is in the Sumner Papers v. 8, no. 115, Harvard College. Sumner's unsigned review is in 6 MO. LAW REP. 380.

55. *Id.* "Few persons will attempt the text, who can desire any such assistance . . . The beautiful page is marred in our eyes by these unseemly appendages."

56. HARVARD QUINQUENNIAL CATALOG, 1817-1924 (1925) p. 35. Marvin apparently continued formal

received the faculty appointment as librarian of the Law School: salary, \$75 a year, room free in 7 Dane Hall among the duplicates.⁵⁷ It meant two more terms at least with the revered Story and Greenleaf—precisely the recognition and opportunity Marvin craved.

IV

Though barely a thousandth the size of its modern counterpart in Langdell, Dane Library already was the heart of Harvard Law School, its instructional center, and unsurpassed, not merely in America, but abroad, as a library of *world* law.⁵⁸ English and continental collections were far superior regionally and nationally. Yet no other was so well rounded or carefully selected. This of itself was a measure of Judge Story's influence. In 1829 he had found little more than a broken collection of older English reporters and classics. Even 150 volumes of late American reports were lacking. Forthwith, and from his own library, he had selected 553 volumes of needed Anglo-American items and offered them at \$4 a volume, barely half the replacement cost.⁵⁹ By the date of removal to Dane Hall (1832) the worst gaps had been filled. Yet the collection still numbered only from 2000 to 3000 volumes,⁶⁰ including duplicates. The young student librarian however was Charles Sumner. He lost no time in preparing—at two dollars per page—

studies until 1846. (*supra* notes 31-32) On degree requirements for this period, see WARREN, HHLS p. 88-92.

57. 2 WARREN, HHLS ch. 28, "The Library, 1833-1845."

58. *Id.* p. 83.

59. *Id.* v. 1, p. 462-464.

60. *Id.* p. 477; cf. v. 2, p. 77.

the library's first printed catalog, in eighty-two pages, and from it listing the chief *desiderata*.⁶¹ During the Thirties progress was rapid: In 1834 came the princely Livermore gift—401 volumes valued at \$6000, largely civil and foreign law classics—from the library of the distinguished Baltimore and New Orleans lawyer⁶² who had written the first American treatises on agency⁶³ and conflicts.⁶⁴ In 1835 Sumner's sixteen page supplement to the catalog recorded these and other accessions.⁶⁵ Further want lists were prepared; the Massachusetts legislature designated Harvard as an exchange agency for state publications.⁶⁶ By this means statute and session law holdings were rapidly expanded. Moreover, the book budget increased to more than \$2500 in 1838-39,⁶⁷ and waxed and waned with offerings and opportunities. By the year of Marvin's entry (1842) accessions numbered 6600 volumes.⁶⁸ A conscientious student might now verify any citation in Blackstone.⁶⁹ Shelves and reading rooms were so crowded a new wing had to be projected, and was first occupied in 1845 during Marvin's librarianship.⁷⁰ When he left Harvard the next January the

61. *Id.* p. 79-80.

62. See DICT. AM. BIOG. "Samuel Livermore, 1786-1833."

63. A TREATISE ON THE LAW OF PRINCIPLE AND AGENT, AND OF SALES BY AUCTION, 2d ed. 2 v. 1818. (1st ed., 1811).

64. DISSERTATION ON THE QUESTIONS WHICH ARISE FROM THE CONTRARIETY OF THE POSITIVE LAWS OF DIFFERENT NATIONS. New Orleans, 1828. See also, Marvin's note LB p. 470.

65. 2 WARREN, HHLS p. 80.

66. *Id.*

67. *Id.* p. 77.

68. *Id.* p. 78. Harvard figures vary somewhat for this period.

69. *Id.* p. 83.

70. *Id.* p. 30; see also CHHLS ch. 3 "The Library," and plates facing p. 16 and 90.

collection totalled more than 8000 volumes, and represented an investment of \$32,500, made over a thirty year period.⁷¹

Such was the library over which John Marvin, tenth and last of the student and graduate librarians, chosen annually by the faculty for superior scholarship,⁷² presided for 18 months. His tenure was one of assimilation and organization rather than of further rapid growth. The book budget was quartered (cut from \$2234 in 1843-44 to \$629 in 1844-45).⁷³ Stress was laid on acquiring session laws and local practice materials, obtainable by solicitation or exchange. The overreaching need at this date was a new catalog. Woodward's, compiled in 1841, already was outmoded. Holdings had tripled in a decade; need for subject organization already was making itself felt. The modern card catalog of course lay in the future.⁷⁴ Rules of entry were largely unformulated and wholly unsystematized. English reports still were listed by reporter or title; corporate entry was yet to be developed—only occasionally was there even rough listing by jurisdictions.⁷⁵ Yet under the leadership of Charles Coffin Jewett,⁷⁶ librarian at Brown University in Providence, rapid progress already was

being made by American libraries in these very directions. Much was to be done at Dane, and Marvin and his assistant, B. F. Latham of Providence,⁷⁷ were selected to do it. The collection of from 8000 to 10,000 volumes was to be rechecked, cataloged and subject indexed; the manuscript copy then set in type and proofread.

V

Elsewhere too, these were formative, fruitful years for American law librarianship. Indeed, events and personalities seem almost to have conspired to foster the profession.⁷⁸ Perhaps the outstanding instance was the *Girard Will Case*.⁷⁹ Stephen Girard, emigré merchant and banker of Philadelphia, had died in 1831. The bulk of his multimillion dollar estate—the first of the great American philanthropies—was willed in trust to the city of Philadelphia to found a school for orphan boys, with the added proviso that no ecclesiastics or ministers ever were to participate in the administration, or even to act as visitors to the college! Counsel for French heirs at once attacked the will. By the time the case reached the Supreme Court of the United States in 1844 the leading lawyers of the country had been arrayed

71. 2 WARREN, HHLS p. 77-78.

72. *Id.* p. 79.

73. *Id.* p. 77.

74. Card cataloging was not begun in Harvard's special collections until 1848. On library history of this period, see BOROME, *infra* note 76; JOHNSTON, HISTORY OF THE LIBRARY OF CONGRESS, 1800-1864 (1904); POTTER, THE LIBRARY OF HARVARD UNIVERSITY.

75. Cf. Marvin, LB *passim*, and the 1846 Harvard Law CATALOG (*infra* note 88).

76. See BOROME, CHARLES COFFIN JEWETT (1951). Jewett, first professional librarian in the United States, later was librarian of the Smithsonian Institution, 1849-1854, and superintendent of the Boston Public Library, 1855-68.

77. LL.B. class of 1845; see WARREN, HHLS p. 35.

78. For a suggestive summary, see Hewitt, REMARKS ON JOHN W. WALLACE, 15 L. LIB. J. 61 (1923) and the early pages of any edition of WALLACE, THE REPORTERS.

79. *Vidal v. Philadelphia*, 2 How. 127 (1844). The Binney-Sergeant arguments are fully reported in ARGUMENTS OF DEFENDANT'S COUNSEL AND JUDGMENT OF THE SUPREME COURT OF THE UNITED STATES IN THE CASE OF VIDAL V. PHILADELPHIA. (1844). See 2 WARREN, HHLS p. 31-33 for Story's comments on the case and arguments; and note Wallace's references to its importance in THE REPORTERS 3d ed. (1855) p. 8-9, 13, 31 etc.

in two camps for years, combing the common and civil law for authority: Horace Binney⁸⁰ and John Sergeant⁸¹ as counsel in chief for the city, Walter Jones⁸² and Daniel Webster for the heirs. Their merciless search for precedents had profound repercussions.⁸³ Numerous gaps were found in American library holdings. Even more startling were the limitations and peculiarities of the reports and reporters themselves. English legal bibliography was diffuse and ill-organized.⁸⁴ There was no single nor ready source for evaluation. Americans were on their own and had literally to reassay the whole common law. It was at this point that young John W. Wallace, Horace Binney's nephew, and since 1841 librarian of the Philadelphia Bar,⁸⁵ began the systematic records and notes which culminated in *The Reporters*.⁸⁶ In New York and New Haven, in Baltimore and Boston and Washington, similar search and organization went on.⁸⁷ Needs everywhere were the same: first for an up-to-date catalog of actual library holdings and law publications, subject indexed for ready use; after that, a qualitative guide that would collate and record professional estimates of the various reporters' worth, index re-

views, identify and help standardize abbreviations—generally bring together in one or two volumes the information needed by American lawyers for efficient use and citation of legal authority. It was to the first of these tasks that Marvin and Latham had proceeded in 1844-45. Beyond question they worked zealously; for early in 1846 the new 354 page Harvard Law Catalog was published.⁸⁸

Marvin was now thirty-one years of age. His savings presumably were exhausted. Other legal indexing and editing had brought only modest returns aside from the recognition. Furthermore, Justice Story had died September 10, 1845. Dane Law School thus suddenly had relaxed its hold. Yet the mounting needs of the legal profession emphatically had not. Many times Marvin had heard Justice Story extoll legal bibliography—the demand for a good table of abbreviations, for an annotated descriptive catalog, a desk book that would guide and lighten professional labors. For seven terms the Judge's immense learning and notes had been at Marvin's disposal. Beyond doubt, he had made good use of them. Added help and encouragement had come from Greenleaf and Sumner—all supplemented by intensive study and reference experience. However pressing his financial needs, however great his desire to enter practice, Marvin resolved first to compile the needed bibliographic volume. In January, 1846, he resigned

80. See DICT. AM. BIOR.; and C. C. Binney, *Horace Binney* in 4 GAL 197 (1907).

81. 1779-1852; See DICT. AM. BIOR.

82. 1776-1861, see DICT. AM. BIOR.

83. See *supra* note 78.

84. See *supra* note 5.

85. Wallace was twenty-six in 1841 when appointed librarian of "The Library of the Law Association of Philadelphia" originally chartered in 1802 as the "Law Library Company," and today known as the Philadelphia Bar Library.

86. See *supra* notes 4 and 5, *infra* note 101.

87. JOHNSON'S LAW CATALOG, 1850, *supra* note 2, with its quoted correspondence and classed organization suggests the rapid developments taking place in the 40s and 50s. See also Hewitt, *supra* note 78.

88. A CATALOG OF THE LAW LIBRARY OF HARVARD UNIVERSITY IN CAMBRIDGE, MASSACHUSETTS . . . 4th ed. (1846). This catalog identifies volumes given by Story, Livermore and other donors. Actually it was the third complete catalog; numbering apparently became confused by counting Sumner's 16 page supplement as an "edition."

the librarianship and began the job.

The new Harvard catalog served as foundation. Yet much had to be added; still more revised. Latest editions had to be determined, older, fugitive, or borderline items eliminated; above all, the statutes, reports, and local practice lists must be rounded out and certified by authorities in each jurisdiction. For this purpose a printed form was employed;⁸⁹ yet Marvin was too thorough to rely wholly on such methods. He went directly to Philadelphia and worked in the rich collections at the Bar and the Library Association. On January 23, 1846, he addressed a revealing note to Professor Jared Sparks, of Harvard College:⁹⁰

For purposes connected with my research as relative to American Legal Bibliography I am desirous to make the acquaintance of Mr. Force in Washington City. If convenient you would do me a favor to furnish me with a note of introduction to this gentleman and also to Professor Henry or the Librarian of the Smithsonian Institute. I shall be obliged to go pretty generally through the old thirteen states to collect the necessary material for my undertaking and if I can serve you in any way I hope you will do me the favor of having an opportunity to do so. Please direct to this city [Philadelphia.]

P.S. After a few weeks I shall be in Washington for some time.

Brevity and intimacy here suggest that Marvin's enterprise already had become common knowledge at Harvard. Certainly he understood the value of references, of authoritative guidance and aid.

By April 20 he was back in Boston. Little and Brown had been ap-

89. A copy of this blue printed form is in Marvin's "Bibliographical and Biographical Notes," preserved in Harvard Law Library. See *infra* note 110.

90. SPARKS CORRESPONDENCE, Houghton Library, Harvard.

proached.⁹¹ Apparently they expressed a chary interest—haunted in likelihood at the prospect of so limited a potential market. Perhaps to counter their skepticism or inertia, Marvin hired or persuaded the firm to set up his title page⁹² and a first sheet of text. This signature was then dispatched to leading American legal scholars—among them Chancellor Kent, J. K. Angell and Charles Sumner, asking criticism and support. Replies were prompt and encouraging.⁹³ Sumner had "examined with uncommon interest the sheet . . . of your proposed . . . Legal Bibliography. [Such a work] wrought with the learning and accuracy which mark this specimen, cannot fail to be of essential service to every student and practitioner . . . Bibliography is to the field of learning what geography is to the earth's surface . . ."⁹⁴

The distinguished author of the first American works on watercourses and corporations was equally favorable:

I certainly approve of your plan and have been pleased with the specimens . . . of your intended 'Critical observations upon the various editions and authority of the reports and elementary lawbooks.' . . . I have entire confidence you will do the subject full justice. Such a work at this day seems to be required, and I think it would be much sought after and liberally patronized.⁹⁵

91. Unfortunately the firm's correspondence for this period has not been preserved. (Letter of Mr. Rodney Robertson, Law Book department, Little, Brown & Co., to Howard Jay Graham, March 7, 1955.)

92. A title page bearing the imprint "Boston, Little and Brown, 1846," is preserved in Marvin's *Scrapbook I*. All recorded copies bear the imprint "Philadelphia, Johnson, 1847."

93. See the reprinted replies p. 80-81 of JOHNSON'S LAW CATALOG, 1850; these letters are also printed in the advertising prospectus, a copy of which is preserved in Marvin's *Scrapbook I*.

94. JOHNSON'S LAW CATALOG, 1850, p. 81.

95. *Id.*

And Chancellor Kent, dean of American judges and legal scholars, likewise approved—indeed indicated apparent familiarity with Marvin's reputation and project:

The plan . . . is excellent, and when duly executed will be too interesting not to be well received by the Profession. You need not be apprehensive of any difficulty on that head. Your diligence and comprehensive and accurate research, must inevitably appear to good advantage, and I wish you '*gloria*' as well as '*utilitas*' in the result.⁹⁶

This was encouragement enough. Marvin evidently resolved to complete the project, worry later about publication and returns. He immediately prepared a "Prospectus"⁹⁷ and subscription order quoting the above letters, and outlining his plan. During the remainder of the year he worked feverishly—adding and winnowing titles, preparing annotations, seeking the difficult balance between practitioners' law and legal classics and jurisprudence. Title by title he checked the Harvard list against shelves and catalogs in state and bar libraries, and at Philadelphia and Washington. Comparison of almost any portion of the final work with the 1846 Harvard original reveals the care and discrimination shown.⁹⁸ Stress was consistently laid on recent and current practice materials, on commercial and maritime subjects, on revision and refinement of subject headings and references; above all, on careful preparation and expansion of the annotations—making use, for this purpose, of all

available Harvard notes, indexes of leading journals and bibliographies, as well as the pioneer student manuals of Hoffman and Kent. Marvin's debt to John W. Wallace undoubtedly was great, as his preface acknowledged.⁹⁹ Yet he scrupulously avoided detailed annotation of most of the reporters. Hence one suspects the Philadelphian's obligations were equally large and reciprocal.¹⁰⁰ These two ardent co-workers really pooled their learning and references, and divided the field. Essentially their projects were complementary, not competitive. To a remarkable degree, moreover, each represented the flowering of an entire legal community. Marvin's industry preserved and organized the learning of Story and Greenleaf, the Adamses, Dane, Angell, and the other Bostonians, living and dead. Wallace's work performed a like function for the learned Philadelphians¹⁰¹—men like DuPonceau,¹⁰² Horace Binney, the Sergeants, the Dallases,¹⁰³ and a dozen

96. *Supra* note 15; see also his generous references to THE REPORTERS, in LB p. 715.

97. See *supra* note 5.

98. Wallace's dedications and acknowledgments give insight into the cooperative, collaborative work of compilation. His 3d ed., 1855, was dedicated to William Green of Culpepper County, Virginia, who had "pursued, with a success unattained in England or America, the recondite searches of legal bibliography." For an account of Green's life and further evidence of his extraordinary scholarship, see Gordon, *William Green*, in 5 GAL p. 257. See also Wallace's acknowledgment (1855 ed. p. 7 note 1) to Judge Stroud and to E. D. Ingraham, T. I. Wharton, and A. I. Fish, as well as to his late brother, Horace Binney Wallace, a distinguished reporter and legal editor.

99. Peter Stephen DuPonceau, 1760-1844, author of the first treatise on *JURISDICTION OF THE COURTS OF THE UNITED STATES* (1824) Cf. Marvin's note LB p. 281 and Graham, *Procedure to Substance: Extra-judicial Rise of Due Process*, 1830-1860, 40 CALIF. L. REV. 483, 497-9 (1952) note 59 and authorities there cited.

100. This was still the day of the "Philadelphia lawyer"—New York had not yet become the legal capitol.

96. *Id.*

97. See *supra* note 93.

98. Cf., for example, the entries for the letter A in the two volumes, and note the differences in the handling of such heads as "Canon law" (Harvard Catalog index) and "Ecclesiastical and canon law" (Marvin) etc.

others. Story's position in Washington for a generation¹⁰⁴ had of course made his mind and notes a veritable national clearinghouse for similar professional knowledge of the Virginia, Carolina, Baltimore, New York and New Haven bars—characterized by such distinguished leaders as the Ellsworths¹⁰⁵ and William Pinkney,¹⁰⁶ Kent¹⁰⁷ and William Wirt.¹⁰⁸ Both works thus were in a sense composite and truly national—indeed international—for the very fact and manner of their compilation (simultaneously in this crucial decade of the 40s, when there still were no single volumes of comparable scope and scholarship in England)—made them a happy augury and condition for advancement of the whole Anglo-American legal system. Bibliographically the New World came to aid of the old,¹⁰⁹ and at a most opportune time for each.

The manuscript grew steadily in scope and bulk. A "dummy" or work

104. It is hard to exaggerate the importance of this circumstance, in view of Story's contributions as writer and teacher as well as judge. Americans generally are aware how much they owe to the Fathers of 1787, and to Chief Justice Marshall; yet Story's role, almost equally great, 1812-45, still is unrecognized for lack of an adequate biography. See *supra* note 36. *WARREN, SUPREME COURT IN UNITED STATES HISTORY* (1922) 3v., is suggestive, as is his *HISTORY OF THE AMERICAN BAR* (1911) ch. 11, 15-16, on "The Federal Bar and the Law," 1789-1860. Unquestionably Story was America's recording law bibliographer for the period 1800-1845, and Marvin the zealous transmitter of much of his learning.

105. See Cook, *Oliver Ellsworth*, in 1 GAL 307 (1907); *William W. Ellsworth* in *DICT. AM. BIOG.*; also Graham, *Early Antislavery Backgrounds of the Fourteenth Amendment*, 1950 WISC. L. REV. 498-506.

106. See Niles, *William Pinkney*, in 2 GAL 177 (1907); *DICT. AM. BIOG.*

107. See *HORTON, JAMES KENT* (1939); Scott, *James Kent* in 2 GAL 491 (1907).

108. See Hall, *William Wirt*, in 2 GAL 263 (1907); *KENNEDY, MEMOIRS OF THE LIFE OF WILLIAM WIRT* (1849) 2 v.

109. See *supra* notes 2, 5, 7.

volume preserved at Harvard¹¹⁰ reveals Marvin's aspirations. Various marginal queries¹¹¹ plainly are addressed to those whose advice he sought:

I will prepare the American part first and if it takes in a second edition enlarge and incorporate the English and Continental Biography. . . .

Perhaps it will be best to omit the continental writers for a new work—

How would it do to include the continental with the other and make a sort of Encyclopedia of Legal Biography.

How would it answer to compile a volume of legal anecdotes as I prepare the Biography?

Such zeal and perfectionism at length proved too much for the firm of Little and Brown. Whether second doubts led them to withdraw, or whether Marvin in turn withdrew his manuscript, can only be conjectured.¹¹² Possibly, working in Philadelphia, and finding more enthusiasm and support in that national legal center, he managed to obtain more favorable terms from T. & W. Johnson, then the leading American law book firm.¹¹³ All that is certain is that during the latter part of 1846 King and Baird of Philadelphia took over the printing,¹¹⁴ and the Johnsons eventually were the publishers. Marvin spent much time in Philadelphia. Two letters written to Charles Sumner while the book was in press, are of extraordinary interest. The first, dated January 23, 1847, seems to confirm what one would suppose almost from the preface and from the size of the volume—that Mar-

110. See *supra* note 89.

111. Those quoted are all on page 1, and were written at different times.

112. See *supra* note 91.

113. See *supra* note 12.

114. See *supra* note 13.

vin had spent far more time and money on the project than intended, and he now was forced to seek remunerative employment:

Private Philadelphia, Jan 23rd 1847

Dear Sir:

During the progress of my Bibliography through the press I found that it was necessary for me to come to Philad. where I have been detained much longer than anticipated. It is now nearly printed and when out I shall do myself the pleasure of immediately forwarding you a copy. I intend going to Washington in a few days and desire your friendly assistance relative to some business—I half fear that you will grow (if you have not already) weary of my continual drafts upon your generosity, but the necessities of the present case and your known disposition to assist friends emboldens me again to ask a favor. I am anxious to secure an appointment to a situation of a legal character in one of the about to be Territorial Governments. You know something of my habits of study, my past few years advantages, and something of my acquirements. Can you conscientiously speak of my fitness for such a situation as I am seeking for? viz. one of the judgeships or the office of District Attorney for Oregon?

If it is not contrary to your ordinary habit to give letters and you will have the kindness to furnish me with a sort of general letter of credit it will be exceedingly serviceable to me at this juncture. If you feel at liberty also to give me a note of introduction to Mr. Webster and Judge Woodbury, they would be advantageous to me. Please direct to this city.

Truly yours,
J. G. Marvin

To
C. Sumner, Esq.
Boston, Mass.¹¹⁵

A month later Marvin wrote Sumner again. Accompanying the letter was a presentation copy of his book. Marvin's remarks suggest either that his political aspirations had met with little encouragement in Washington, or that, flushed with the success and

recognition of authorship, he now hoped for an academic or professional career in the East which would permit continuance of his project:

Philadelphia, Feb 13th 1847

Dear Sir:

I herewith forward you a copy of my Bibliography, which though far from being what I had hoped to make it has not been compiled without some toil and research. Your knowledge of the difficulties attending the collection of the widely scattered materials for such a volume, I trust will incline you to pardon some of the deficiencies which I am conscious the work upon close inspection will disclose. It is the germ of what I hope hereafter to make more worthy of the subject and the consideration of the profession. Perhaps too wide a range of authors is attempted for general ability, but I thought it better to err on the side of profuseness than meagerness. The idea of including the abbreviations was derived from Judge Story whom I have heard say "that he had often been called upon in the Supreme Court to explain this and that abbreviation to members of the Bar." I therefore thought that they might not be unacceptable to students and young lawyers though in this I may have been mistaken. I hope the volume will be found to answer the purposes for which it was designed, for its compilation has been made with a view of utility and as a labor of love without the slightest expectation of profit. Now it is complete I see some things to correct, and discover a number of important titles have been omitted, but with all its defects I trust it will be found to contain some useful information. Perhaps amidst your almost numberless engagements you may find time to give the work a passing notice in the Law Reporter, and whatever your judgment may be of its plan and execution, I know it will be given with your characteristic frankness and impartiality. I now propose as fast as practicable to go on collecting materials for the Biographies of deceased American lawyers, a department of our history that has been quite too long neglected. The subject is surrounded with difficulties from the paucity of published documents requisite for such an undertaking, and much of the information must be derived from unpublished records and the memories of living men. How much valuable information of this description was buried with our beloved instructor and friend, the late Mr. Justice Story! Fortunately I pos-

115. SUMNER PAPERS, Houghton Library, Harvard College, v. 11 no. 3. Marvin's punctuation has been modernized by conversion of dashes to periods where appropriate.

sess very full notes of his Lectures for two or three years, containing a considerable amount of biographical information.

Truly and Sincerely yours
J. G. Marvin

To C. Sumner, Esq.
Boston, Mass.¹¹⁶

Marvin's hopes for a second volume, or a second edition, were of course doomed to disappointment. Sales were few, despite the prospectus and favorable reviews. The manuscript volume in Harvard, above quoted, records Marvin's dreams and the thoroughness with which he outlined the continuing project. A list of English "Works in press or in preparation similar to this",¹¹⁷ including Campbell's *Lord Chancellors*¹¹⁸ and Foss's *Judges*,¹¹⁹ suggests both his hopes and method. Several biographical sketches found among his papers in California evidence the beginnings. The sad truth was simply that bibliography and scholarship buttered very little bread.¹²⁰ His savings and hopes exhausted, Marvin turned of necessity to legal practice. His scrapbooks for the years 1847-48 are a complete blank, suggesting no further diversions. The single record of this period is a letter dated Washington City, Oct. 5, 1848. It was addressed to Secretary of State

116. *Id.* v. 11 no. 12.

117. *Loc. cit. supra* note 89.

118. CAMPBELL, LIVES OF THE LORD CHANCELLORS (London, 1845-69) 8v.

119. FOSS, THE JUDGES OF ENGLAND (London, 1848-64) 9 v.

120. In addition to the work cited *supra* note 18, Marvin apparently at this date prepared the index for Judge Howe's LAWYER'S COMMON PLACE BOOK (1846). (See undated clipping pasted in *Scrapbook I* beside the Little & Brown titlepage referred to *supra* note 92.) In 1855 Marvin was at work on a California Justice's Manual, and reportedly completed much of it before ill health forced abandonment. (See another undated clipping, *Scrapbook I*.)

James Buchanan¹²¹ on behalf of thirty destitute soldiers whom Marvin had accompanied from Philadelphia. His brother Edwin, had graduated from Harvard Law School in 1846, and now was an attorney in the Pension Bureau.¹²² Marvin did his utmost to pressure officials on behalf of his claimants. Meeting with no success, he finally sought a "line" from Buchanan "to the Commissioner of Pensions requesting him to act upon these 30 cases with all convenient speed"—hinting that otherwise the "report they will carry back will injure the democratic cause" in Philadelphia in the coming elections!¹²³ Such pointed frankness suggests that Marvin may have had some party standing or acquaintance with the Secretary.

The one decisive, lasting result of this visit may well have been Marvin's presence in the city immediately prior to President Polk's message confirming discovery of gold in California and while the first excited rumors were circulating in the press and capitol.¹²⁴ Barely a year and a half before Marvin had considered seeking advancement in Oregon.¹²⁵ News from California was spectacular. A new empire was in the making. The young attorney was no robust frontiersman—indeed, tuberculosis was a family scourge.¹²⁶ But

121. In JAMES A. BUCHANAN MANUSCRIPTS, Pennsylvania Historical Society, Philadelphia.

122. See 3 WARREN, HHLS p. 40; Edwin C. Marvin perished on the S.S. *Northern Lights* in the Pacific Ocean, 1853. HARVARD LAW SCHOOL QUINQUENNIAL CATALOG, 1817-1924 (1925) p. 35.

123. *Supra* note 121.

124. News of the gold discovery began to circulate in the press in September-October, 1848. President Polk's message was delivered December 5, 1848.

125. See letter to Sumner, January 23, 1847, quoted and cited *supra* note 115.

126. Marvin's elder brother, Eli S. Marvin, with

he was footloose, restless, ambitious. Bibliography had played out; practice was humdrum. Gold now was the magnet, the catalyst, the state builder. Westward lay opportunity—a land of Manifest Destiny—in government, in politics, in law. What fired the mind was

Not the vulgar thirst for gold
[But] Law, order, science, arts and all that
springs
Beneath Civilization's sheltering wings.¹²⁷

For six months longer the young

whom he lived and farmed in California, 1853-55, also died of tuberculosis; see HISTORY OF STANISLAUS COUNTY (*supra* note 24) p. 165.

127. At the head of the first column of the first issue of his *Sonora Herald*, July 4, 1850, Marvin quoted Lady Emeline Stuart Wortley's "Americans Crossing the Isthmus," containing this passage. The verse itself was so unrelievedly bad Marvin obviously quoted it for sense rather than sentiment.

attorney fidgetted over his office briefs and forms. Then he signed as one of 65 incorporators of "The California Gold Mining Company of Philadelphia."¹²⁸ On July 3, 1849, he sailed for San Francisco aboard the *Europe*,¹²⁹ with 51 partners, five women, two children, and a priceless cargo of lumber, for the seven-months, 20,000-mile journey via Cape Horn. . . . A legal bibliographer in the Gold Rush!

128. *Scrapbook I*, undated clipping, July 1849.

129. The roster of Marvin's shipmates aboard the *Europe* is printed in HASKINS, ARGONAUTS OF CALIFORNIA (1890) p. 487; it included members of the Bache (descendants of Benjamin Franklin) and Tilghman families; also young Enos L. Christman, later printer on the *Sonora Herald*, whose diary and letters, edited and published in 1930 under the title ONE MAN'S GOLD, give fascinating sidelights on the misadventures and boredom of Marvin's seven-months journey; see especially p. 37, 53, 61, 69-70, 83, 130.

The Impact of Impending Enrollment Increases Upon Legal Education

by MARLIN M. VOLZ, *Dean*

University of Kansas City School of Law

If law school admission policies and other factors remain constant, it is safe to assume that nearly twice as many law students will seek admission in 1970 as in 1954. The full implications of this startling fact are difficult to perceive, but it is time for all law school administrators and faculties to give most careful thought to the problem. Wise planning now may well result in the most fruitful period in legal education; inadequate preparation to meet the situation will most likely lead to a serious degradation in the quality of law school instruction. Programs and policies providing for an orderly expansion of law school faculties and facilities should be considered and formulated now.

The advance surge of the impending tidal wave of students is entering the high schools. By 1958, its impact will begin to be felt seriously by the colleges and universities, and by 1960 or 1961, by the law schools. Thereafter, unless restrictive measures are taken, a significant enrollment increase should occur each year. The number of students who will become of age to enter the law schools between now and 1970 are already born. Barring a major catastrophe, they are a statistical certainty.

In 1954, approximately 31% of the

college-age population attended colleges or universities.¹ This percentage has been increasing constantly, rising from 4% in 1900 to the present figure. It seems apparent that this trend will continue and that by 1970 at least 40% of college-age youth will enroll in our institutions of higher education.² Of the students enrolled in colleges and universities in 1954, 1.6% were attending the 157 law schools of the nation.³ Assuming that the percentage of college-age youth seeking higher education remains at 31%, which is contrary to past experience and present trends, and further assuming that the percentage of college students attending law schools continues at 1.6%, college and law school enrollments per year from 1954 to 1970 would be estimated⁴ as shown in Table I.

Adjustments in the above statistics must be made separately for each law school because of local factors. Population growth is not uniform throughout the country. In some areas, a higher percentage of college-age stu-

1. THOMPSON, THE IMPENDING TIDAL WAVE OF STUDENTS 20 (1955). Report of the Committee on Special Projects of the American Association of Collegiate and Admissions Officers.

2. *Ibid.*

3. This is based upon a college population of 2,469,942 in 1954-55 and a law school enrollment of 39,565.

4. THOMPSON, *op. cit. supra* note 1, at 22-23.

TABLE I
Enrollments Projected to 1970-71

Year	College	Law School	Year	College	Law School
1954-55	2,469,942	39,565 ⁵	1963-64	3,267,530	52,180
1955-56	2,505,206	40,082	1964-65	3,396,114	54,338
1956-57	2,539,762	40,636	1965-66	3,617,684	57,883
1957-58	2,571,684	41,147	1966-67	3,831,145	61,298
1958-59	2,633,968	42,143	1967-68	4,069,037	65,105
1959-60	2,723,638	43,578	1968-69	4,145,538	66,328
1960-61	2,874,678	45,995	1969-70	4,130,957	66,095
1961-62	3,068,117	49,090	1970-71	4,219,047	67,504
1962-63	3,193,389	51,094			

dents attend colleges and universities. The migration of peoples, especially that of college students in seeking better educational opportunities, must be taken into account.⁶

PLANNING FOR THE FUTURE

Planning for the years ahead must be made in the present day setting but must contemplate the needs of the future. Modern conditions require higher qualifications for the bench and bar. The competent lawyer of today (and tomorrow) needs a more thorough knowledge of law, a greater familiarity with all branches of learning, and more highly developed skills than did his predecessor. The legal educational process must continuously improve. Of the lawyer's total training, the law school has in the past, does now, and will in the future, provide only a part. It must depend upon the liberal arts college to furnish him

with a sound general education and it must rely upon the lawyer's own program of self-education after graduation to acquire or sharpen many of his professional skills.

However, through the advent of the law center philosophy, it is now generally felt in legal educational circles that the obligation of a law school to its graduates or to the profession does not end with the commencement exercises. It is now recognized that a most important function of a law school is to interest each graduate in a life time of learning and to provide opportunities therefore through a well conceived and directed program of continuing legal education. Another facet of the law center concept is that a law school should assume a leading role in the improvement of law through scholarly research and investigation. Such research places greater emphasis upon the size and quality of the law library than ever before.

Thus, the undergraduate teaching curriculum is only one phase in the modern law school's total program. Additional activities in many law schools now place a substantial burden upon

5. Law school enrollment figures for 1954-55, released by John G. Hervey, Adviser, Section of Legal Education and Admissions to the Bar, American Bar Association.

6. Detailed statistics on these matters may be found in THOMPSON, *op. cit. supra*, note 1, and THOMPSON, COLLEGE AGE POPULATION TRENDS, 1940-1970 (1954), a Report to the American Association of Collegiate Registrars and Admissions Officers.

staff and physical facilities and these must be taken into account in planning for the future. It would be tragic if problems created by caring for additional numbers would seriously curtail or retard the development of the law center movement, the most significant achievement in legal education in this century.

Modern developments in undergraduate legal instruction also call for additional staff and facilities. Since World War II, teaching techniques have been improved through increased use of audio-visual materials, through greater utilization of the problem method of instruction, and through the introduction of more extra-legal and text materials. There has also been a decided shift in the direction of smaller classes, of seminars, and in the teaching of legal research and writing and other practical skills. Planning for the future should contemplate the continuation of this ferment in legal education and should seek to improve the quality of instruction in order to prepare graduates for the more exacting demands of the profession and of the public in the years ahead.

The law school of the future is thus not only faced with the problem of coping with greater numbers but must be interested in improving further its undergraduate teaching, in providing opportunities for continuing legal education, and in doing scholarly research to adapt the legal system to the demands of the atomic age. This is a large order and can be accomplished only if present funds are greatly augmented. One fact is inescapable; legal education in the future must and will

be more expensive if it is to meet the needs of the coming generations.

Adequate financing is the number one need of the future. More support can be expected from the profession itself as the law schools expand their work in continuing legal education and thereby improve the economics of the bar through increasing efficiency and bettering skills.

In planning for the future, law faculties cannot overlook the serious problems faced by law libraries. Worthwhile law books and reports are coming off the presses at an accelerated rate. Larger and better libraries will be required to carry on the type of instructional and research programs which law schools will strive to do in the future, and reading room space will be under greater and greater pressure from increased numbers. Book acquisitions will use up existing shelving in many of the schools. Book storage will be a major problem for most libraries. Microfilming and other space saving methods will undoubtedly become more popular.

THE IMPACT UPON A HYPOTHETICAL LAW SCHOOL

In order to visualize more concretely the problems created by expanded enrollments, let us assume a hypothetical law school and the deliberations and actions of its faculty in meeting the anticipated needs of the future. The Urahrah Law School in 1954-55 has a total day enrollment of 200 students, of whom 85 are in the first year, 60 in the second year and 55 in the third year. Its faculty consists of seven full-time teachers, one dean, one librarian, one assistant librarian and four part-

time instructors. It has its own building containing five classrooms seating 125, 80, 80, 60 and 40. There are nine faculty offices besides those for the dean and librarian, of which one is used by the law review. The library reading room accommodates 100 readers. The library consists of 40,000 well-selected volumes. Shelving exists for another 10,000 books. At the present time no classes are sectioned. The curriculum requires the work for the first two years and provides broad electives for the third. Four of the five classrooms are now regularly in use, one for each of the two years and two for the third year.

At one of its law faculty meetings, the dean of Urahrah Law School is requested to prepare figures projecting law school enrollments to 1970-71. The dean finds that a 3% in-migration of college students exists and that

TABLE II
Projected Enrollments to 1970-71 Assuming a Present Enrollment of 200

Year	1st year class	2nd year class	3rd year class	Total
1954-55	85	60	55	200
1955-56	86	61	56	203
1956-57	87	62	57	206
1957-58	88	63	58	209
1958-59	90	65	60	215
1959-60	93	68	62	223
1960-61	97	72	66	235
1961-62	102	77	71	250
1962-63	106	80	74	260
1963-64	108	83	76	267
1964-65	113	87	80	280
1965-66	119	93	86	298
1966-67	125	99	92	316
1967-68	132	106	98	336
1968-69	134	108	101	343
1969-70	133	107	100	340
1970-71	135	109	102	346

about 33% of college-age youth attend college in his area as against the 31% national average. Since his law school has only a good local reputation and does not draw nationally, he believes that he can use the general enrollment projections set out in Table I, adjusted by the 3% and the 2%, or a total of 5%, caused by local factors. These are in Table II.

The dean explains that the above figures are conservative in that they contemplate only a 33% college attendance by college-age youth whereas it is generally assumed that this percentage will increase to, at least, 40% by 1970. On the basis of a 40% figure the enrollment in 1970-71 would be about 400 or twice that of 1954-55.⁷

HIGHER ADMISSION REQUIREMENTS

After much discussion, the law faculty of Urahrah Law School concludes that the impending enrollment increases afford an excellent opportunity to improve the quality of the student body by raising entrance requirements. The faculty does not incline to the point of view that there is merit in reducing numbers but believes that it will be doing future students a service if it can devise an admissions program which will eliminate in advance many of the persons who would otherwise be unsuccessful in the law school or in the profession. Presently students with 90 college credits and a "C" average are admitted. After studying admission policies of other law schools and carefully considering the matter,

7. If 40% of the college age group attended, 5,443,932 would enroll in 1970-71 as compared with 2,629,293 in 1954-55. THOMPSON, *op. cit. supra* note 1, at 24.

the faculty votes that beginning with the fall semester 1957-58 it will (1) require all entering students to earn the undergraduate bachelor's degree prior to or concurrently with the LL.B. degree, and (2) require all entering students to attain a certain minimum score on a law school admission test. The minimum score required will vary according to the college record made by the student so that the "B" college student may be admitted with a lower score than the "C" student. The faculty is advised that a combination of college grades and test scores offers the highest degree of predictability of success or failure in the law school. So that the faculty may better know at what levels to set the minimum scores, information is obtained from other law schools now using such method of admission⁸ and the faculty votes to require all students entering in 1956-57, one year before the new admission policies take effect, to be tested for informational purposes only.

After examining past records of failures among the first year students, the faculty determines that the desirable policy should be to aim at eliminating the poorest 15% of the applicants on the combined basis of college records and test scores. Since many of these persons would normally be eliminated anyway at the end of the first year, the faculty estimates that these reductions in incoming students should not reduce second and third year class enrollments by more than 5%. The faculty then asks the dean to prepare another table of anticipated enrollments from now to 1970 based on the

new admission policy which the faculty has agreed upon. These are the new estimates:

TABLE III
Projected Enrollments to 1970-71 with
Higher Admission Requirements

Year	1st year	2nd year	3rd year	Total
1954-55	85	60	55	200
1955-56	86	61	56	203
1956-57	87	62	57	206
1957-58	75	60	55	190
1958-59	76	62	57	195
1959-60	79	64	59	202
1960-61	82	69	62	213
1961-62	87	73	67	227
1962-63	90	76	70	236
1963-64	92	79	72	243
1964-65	96	83	76	255
1965-66	101	88	82	271
1966-67	106	94	88	288
1967-68	112	100	93	305
1968-69	114	102	96	312
1969-70	114	101	95	310
1970-71	115	103	98	315

FUTURE NEEDS

The faculty of Urahrh on the basis of the dean's revised figures next attempts to estimate its future needs for additional faculty members. In its deliberations about the matter the law faculty adopts the following general principles:

1. As soon as possible, one half the time of one faculty member should be devoted to directing a program of continuing legal education.
2. All courses of a general nature, except procedure, should be taught by full-time teachers.
3. All classes of more than sixty students should be sectioned wherever possible.
4. Based in part upon the above two criteria, the law faculty believes

8. Forty-eight law schools now utilize a law school admission test.

that an additional full-time teacher, as a general rule of thumb, should be employed whenever the enrollment increases by twenty-five.

Using these general principles as a guide, the law faculty asks the dean to prepare a chart showing the anticipated needs of Urahrah for faculty, classrooms, offices and library reading room space to 1970 and estimating future library expansion. The dean

He explains that, if university authorization can be secured, another full-time teacher should be secured soon to act as part-time director of the continuing legal education program and to permit the reduction of teaching loads for teachers engaged in worthwhile research. These are his estimates of future needs for faculty and physical facilities and of future law library holdings:

TABLE IV
Estimated Needs to 1970 for Faculty and Physical Facilities

Year	Faculty ⁹	Offices	Classrooms	Seats in Library Reading Room ¹⁰	Volumes in Library ¹¹
1954-55	7	8	4	80	40,000
1955-56	8	9	4	81	41,000
1956-57	8	9	4	82	42,000
1957-58	8	9	5	76	43,000
1958-59	8	9	5	78	44,000
1959-60	8	9	5	81	45,000
1960-61	8	9	5	85	46,000
1961-62	9	10	6	91	47,000
1962-63	9	10	6	94	48,000
1963-64	9	10	6	97	49,000
1964-65	10	11	6	102	50,000
1965-66	10	11	6	108	51,000
1966-67	11	12	6	115	52,000
1967-68	12	13	6	122	53,000
1968-69	12	13	6	125	54,000
1969-70	12	13	6	124	55,000
1970-71	12	13	6	125	56,000

points out that under the rules of the Association of American Law Schools the library reading room must be able to accommodate 40% of the total enrollment and that he recommends that the first-year class be sectioned in 1957-58, when the new admission requirements take effect, and that the second-year class be sectioned in 1961-62, assuming that predicted enrollments materialized. Since a wide offering of courses is made in the third year, no sectioning of it is necessary.

Examining this Table the dean reports that beginning in 1961-62, the law school will have to find one more classroom, that commencing with 1964-65 additional seats will have to be provided in the library reading room

9. Excludes the dean and law librarians. It is assumed that only one additional office will be required, that for the law review.

10. This need is based upon the rule of the Association of American Law Schools requiring a minimum seating capacity of 40% of the enrollment.

11. It is assumed that a constant accession rate of 1,000 books per year will prevail.

and that beginning with the same year extra space for faculty offices will have to be found. Also, shelf space for new library acquisitions will be exhausted by 1965.

"And these are only our minimum needs," adds the dean. "We ought to establish a graduate program in order to assist in training the additional law teachers who will be required beginning with 1960." By 1970 from 60% to 100% more teachers will be needed. This is another serious problem facing legal educators.

The dean of good old Urahrah Law School slumps in his chair. "Looks like

the law faculty didn't make adequate plans for the future when you designed our new building in 1950," he observes.¹²

As in the case of other law schools, Urahrah's problems in the future are largely financial. Given the proper support it can use the impending enrollment increases as an opportunity to improve the quality of its undergraduate program and of its services to the law and the profession.

12. Of necessity, planning for the future must be fraught with speculation and based upon uncertain information and future trends. The main purpose of this article is to stimulate the thinking of legal educators about a problem which soon will become acute.

Compensation of Law Library Personnel in 1955

by A. ELIZABETH HOLT, *Law Librarian*

Nevada State Library

The salary figures in the accompanying tables were collected from 48 states and from law libraries of all sizes and all types. The total number of positions tabulated is 407 with 215 separate libraries being represented. **LAW LIBRARIES IN THE UNITED STATES AND CANADA, 1954** lists 753 libraries and 1325 librarians in the United States. Therefore, the 407 salaries reported are almost one-third of the number of the listed law librarians. Stated by percentage, the 407 salaries are closer to being an exact one-third of the law librarians than was the number reported in the 1954 statistics.¹

Additional features have been included in the present set of tables to point up some of the varying factors in law librarians' compensation. Educational experience has been broken down into smaller units by adding six additional headings—high school work, partial work in library school, partial work in law school, partial work in both law and library school, a library degree with some work in law school and a law degree with some work in library school. This change in the classes of formal education was needed to eliminate listing positions incorrectly, i.e. positions appearing in the group of completed work where partial work had been done and posi-

tions appearing as having no training where partial work had been done. It is recognized that a differentiation of partial work from completed work still does not give a complete picture because partial work may be one course or it may be ten courses. However, it is felt that the new headings will produce a more correct picture than did the headings used in last year's compilation.

A more careful selection of returned questionnaires was made this year and consequently the tables are composed of salaries of full time law librarians. The positions of secretaries and clerks not doing library work were eliminated from the compilation as were the positions of county law librarians where the state law establishes a limitation on salaries paid. Obviously people being paid \$500 a year do not work full time or if they do then they receive additional compensation from another source. Librarians who devote more than one-third of their time to duties other than those of law librarian were not included either. Audited courses are not counted in the tabulation of formal education because of the varying practices of required work demanded of individuals who audit courses. The range of compensation received is produced by including the low salary paid in the various classifications.

1. Holt, *Compensation of Law Library Personnel in 1954*. 47 L. LIB. J. 134 (1954).

Most librarians in law schools have indicated that duties other than those of law librarians are involved in their positions. Forty-nine law school librarians devote from a minimal amount to one-third of their time to teaching and they may also serve as faculty advisers, law review advisers, or as school administrators. Several law librarians working in state libraries or in large company libraries have added responsibilities in a general or a technical library. Other duties performed by some law librarians include legislative reference assistant (ordinarily this is a combination of general reference and legal reference work), bookkeeper, office clerk, secretary, court interpreter, marshal of the court, lawyer reference assistant, editor of the court reports, court reporter, court clerk, bailiff and bar association official. Two librarians admitted doing janitorial work. Of the 407 librarians listed, 88 had duties other than those of librarian and less

than ten received additional salary for the extra work done. Most librarians are paid a unit salary which covers all phases of their work.

Table I presents summaries for the entire group of all law librarians and the figures are divided by sex and by the classification of law school librarians and non-law school librarians. The title of non-law school librarians is not descriptive of the positions covered and ideally it should be divided into several categories such as law firm librarians, state law librarians, etc. For the present compilation too few positions are reported to warrant the further classification of positions. The top salary for the country is still \$12,000 paid to a man not in the law school group. There are nine salaries over \$9,000 in this year's compilation compared to seven reported last year. Two of these top salaries are obtained by women in the non-law school group although the second highest salary re-

TABLE I
Summary of Compensation Received by Law Library Personnel

Employees Represented	Law School Employees				Non-Law School Employees			
	No.	Low	High	Median	No.	Low	High	Median
All employees . . .	174	\$1,920	\$10,500	\$4,289	233	\$2,043	\$12,000	\$4,675
Women	114	1,920	7,668	4,095	132	2,070	10,150**	4,337
Men	60	2,000	10,500*	5,000	101	2,043	12,000	5,100

*Two salaries of \$10,500

**Five salaries over \$8,000

	Entire Group			
	No.	Low	High	Median
All employees	407	\$1,920	\$12,000	\$4,455
Women	246	1,920	10,150	4,200
Men	161	2,000	12,000*	5,100

*Four salaries over \$10,000

TABLE II
Relationship of Formal Education to Compensation

Formal Education	Women				Men			
	No.	Low	High	Median	No.	Low	High	Median
High school . . .	16	\$2,340	\$5,185	\$3,381	11	\$2,760	\$5,100	\$4,200
Partial college work	25	1,920	4,620	3,535	8	2,592	6,000	3,936
College graduates .	32	2,070	8,151	3,371	6	2,700	6,391	3,575
Partial library work	16	2,400	9,500	4,266	2	5,810	6,000	5,905
Partial law work .	8	2,912	4,500	3,500	7	2,580	5,400	3,420
Partial work in law & library . . .	8	2,640	6,000	4,500	2	4,760	6,000	5,350
Library school graduates . . .	56	2,600	8,000	4,291	16	2,000	7,500	4,552
Law school graduates	32	2,940	10,150	4,700	67	2,043	12,000	5,400
Library school & partial law work	24	1,980	8,040	4,790	9	3,300	5,400	4,500
Law school & partial library work . .	11	2,220	8,100	5,300	12	3,200	10,128	5,090
Library & law school graduates . . .	18	2,857	7,618	4,977	21	3,150	10,500	5,800
Entire Group								
		No.	Low	High	Median			
High school		27	\$2,340	\$5,185	\$3,564			
Partial college work		33	1,920	6,000	3,545			
College graduates		38	2,070	8,151	3,520			
Partial library work		18	2,400	9,500	4,825			
Partial law work		15	2,580	5,400	3,420			
Partial work in law & library		10	2,640	6,000	4,750			
Library school graduates		72	2,000	8,000	4,291			
Law school graduates		99	2,043	12,000	5,108			
Library school & partial law work		33	1,980	8,040	4,500			
Law school & partial library work		23	2,220	10,125	5,300			
Library & law school graduates		39	2,857	10,500	5,800			

ported (\$11,800) is paid a man in the non-law school group whereas last year a woman ranked second.

Table II shows the relationship of the 11 classes of formal education to the compensation paid to men and to women and it indicates that increased education does command a higher salary and that librarians in the non-law school group obtain a higher median salary in 9 out of 11 of the educational brackets. The men have higher median salaries than do the

women in 8 of the educational classes. The low salaries are lower for women in 8 of the 11 classes although the high salaries of men are greater than those of women in only 5 groups.

Table III enables the reader to compare education and experience of men and women in the two groups of law school librarians and non-law school librarians. Librarians, both men and women, in the non-law school group average higher salaries than librarians of the same educational level

TABLE III
Library Experience and Compensation of Law Library Personnel

Employees Represented	Number of Employees	Average Years of Experience	Low Salary	High Salary	Median Salary
LAW SCHOOL LIBRARY EMPLOYEES					
All employees	174	9	\$1,920	\$10,500	\$4,289
Women	114	8	1,920	7,668	4,095
High school	2	5	—	2,712	—
Partial college work	10	11	1,920	3,800	3,066
College graduates	10	5	2,100	3,600	2,652
Partial library work	6	5	2,400	4,850	3,060
Partial law work	3	11	3,400	4,500	3,600
Partial work in law & library	4	15	2,640	5,158	4,500
Library school graduates	30	10	2,600	6,000	4,200
Law school graduates	18	5	3,000	7,370	4,200
Library school & partial law work	14	8	1,980	6,000	4,327
Law school & partial library work	5	9	2,220	6,344	4,250
Library & law school graduates	12	8	2,857	7,668	4,326
Men	60	9	2,000	10,500	5,000
High school	2	29	—	8,112	—
Partial college work	3	30	—	5,100	—
College graduates	1	3	2,844	—	—
Partial library work	0	—	—	—	—
Partial law work	0	—	—	—	—
Partial work in law & library	0	—	—	—	—
Library school graduates	7	5	2,000	5,500	4,000
Law school graduates	21	10	3,000	10,500	4,800
Library school & partial law work	8	7	3,300	5,400	4,246
Law school & partial library work	6	5	3,200	10,128	5,750
Library & law school graduates	12	7	3,750	10,500	6,000
NON-LAW SCHOOL LIBRARY EMPLOYEES					
All employees	233	10	2,043	12,000	4,675
Women	132	10	2,070	10,150	4,337
High school	14	11	2,400	5,185	3,656
Partial college work	15	6	2,366	4,620	3,722
College graduates	22	10	2,070	8,151	4,140
Partial library work	10	13	3,000	9,500	5,155
Partial law work	5	6	2,912	4,500	3,180
Partial work in law & library	4	20	3,800	6,000	4,400
Library school graduates	26	6	3,480	8,000	4,297
Law school graduates	14	13	2,940	10,150	5,240
Library school & partial law work	10	15	4,455	8,040	5,810
Law school & partial library work	6	16	3,480	8,100	5,450
Library & law school graduates	6	9	4,955	6,920	5,548
Men	101	12	2,043	12,000	5,100
High school	9	11	2,760	5,100	3,510
Partial college work	5	18	2,592	6,000	3,660
College graduates	5	19	2,700	6,391	3,600
Partial library work	2	24	—	6,000	—
Partial law work	7	8	2,580	5,400	3,420
Partial work in law & library	2	3	—	6,000	—
Library school graduates	9	10	4,440	7,500	4,800
Law school graduates	46	13	2,043	12,000	6,000
Library school & partial law work	1	8	4,920	—	—
Law school & partial library work	6	6	4,490	8,500	5,090
Library & law school graduates	9	8	4,920	7,680	5,700

TABLE IV
Compensation According to the Size of the Library Staff

Formal Education and Employees by Size of Staff	Number of Employees	Average Years of Experience	Low Salary	High Salary	Median Salary
STAFF OF ONE					
All employees	85	9	\$2,000	\$8,000	\$4,080
High school	9	11	2,400	5,000	3,420
Partial college work	12	13	2,400	5,100	3,545
College graduates	9	8	2,070	5,200	3,600
Partial library work	0	—	—	—	—
Partial law work	5	7	2,000	4,500	4,000
Partial work in law & library	3	11	—	6,000	—
Library school graduates	9	9	3,500	8,000	4,282
Law school graduates	22	7	2,043	6,000	4,500
Library school & partial law work	7	9	3,300	6,500	4,130
Law school & partial library work	6	8	4,000	5,500	4,495
Library & law school graduates	3	5	—	7,250	—
STAFF OF TWO OR THREE					
All employees	122	11	\$1,920	\$9,500	\$4,436
High School	8	13	3,100	5,100	3,780
Partial college work	10	13	1,920	6,340	3,690
College graduates	12	10	2,100	6,250	2,930
Partial library work	8	15	2,400	9,500	4,825
Partial law work	3	1	—	4,500	—
Partial work in law & library	2	6	—	6,000	—
Library school graduates	12	5	3,500	6,060	4,465
Law school graduates	33	14	3,000	8,844	4,980
Library school & partial law work	10	6	3,700	6,000	4,450
Law school & partial library work	10	11	3,200	8,500	5,700
Library & law school graduates	14	9	2,857	7,200	5,150
STAFF OF FOUR TO EIGHT					
All employees	95	8	\$2,184	\$10,000	\$4,680
High school	7	9	2,340	8,112	3,255
Partial college work	7	8	2,340	5,000	3,600
College graduates	6	8	2,184	5,000	4,330
Partial library work	5	9	3,300	6,000	3,727
Partial law work	3	8	—	4,705	—
Partial work in law & library	4	25	4,000	5,158	4,800
Library school graduates	21	5	2,600	7,500	4,200
Law school graduates	14	12	2,940	7,500	5,690
Library school & partial law work	8	7	3,600	6,140	4,960
Law school & partial library work	5	6	2,220	7,519	4,680
Library & law school graduates	15	8	3,000	10,000	6,000
STAFF OF NINE OR MORE					
All employees	103	9	\$1,980	\$12,000	\$4,705
High school	2	11	—	4,705	—
Partial college work	5	6	3,132	4,100	3,456
College graduates	11	9	2,340	8,151	3,164
Partial library work	5	10	2,820	5,810	5,000
Partial law work	4	14	3,175	7,634	3,500
Partial work in law & library	2	4	—	4,700	—
Library school graduates	28	5	3,456	6,480	4,330
Law school graduates	27	13	3,180	12,000	6,340
Library school & partial law work	7	13	4,092	8,040	4,540
Law school & partial library work	5	12	4,200	10,128	6,391
Library & law school graduates	7	7	4,000	10,500	5,100

in the law school group. The average years of experience is greater in the non-law school group and this is true for both men and women. The difference in salaries paid men and women appears as a greater one among law school librarians.

Table IV is a break down of experience and salaries according to the size of the library staff. An arbitrary classification into four groups was made—staff of one, staff of two or three, staff of four to eight and a staff of nine or more. The medians for salaries paid law librarians are higher as the size of the staff increases and

the top salaries follow this pattern even though the low salary level does not vary relative to the staff size. Two of the salaries were not tabulated because insufficient information was supplied and the positions could not be identified as to the size of the staff.

Table V separates librarians who head a staff from those in positions without top administrative responsibility. The median difference between head librarians and assistants is \$940, while the variance in top salaries is \$1,800, with the advantage being with the head librarian.

Many conclusions can be reached

TABLE V
Compensation According to the Position Held

Formal Education	Number of Employees	Average Years of Experience	Low Salary	High Salary	Median Salary
HEAD LIBRARIAN					
All employees	195	10	\$2,000	\$12,000	\$5,040
High school	13	13	2,400	8,112	3,600
Partial college work	12	19	2,400	6,340	3,802
College graduates	16	13	2,070	8,151	3,750
Partial library work	7	7	4,200	9,500	5,400
Partial law work	5	6	2,000	4,500	3,420
Partial work in law & library . .	8	17	3,800	6,000	4,800
Library school graduates	17	12	3,500	8,000	4,650
Law school graduates	57	10	2,043	12,000	5,478
Library school & partial law work	17	10	3,600	8,040	4,800
Law school & partial library work	21	10	4,000	10,128	5,500
Library & law school graduates	22	8	4,400	10,500	6,060
LIBRARIANS OTHER THAN HEAD LIBRARIANS					
All employees	212	8	\$1,920	\$10,200	\$4,100
High school	13	9	2,340	4,705	3,300
Partial college work	22	8	1,920	5,000	3,540
College graduates	21	5	2,100	6,391	3,000
Partial library work	12	6	2,400	5,810	3,589
Partial law work	11	10	2,580	7,634	3,400
Partial work in law & library . .	3	5	—	4,700	—
Library school graduates	54	7	2,600	6,480	4,247
Law school graduates	37	10	2,940	10,200	4,500
Library school & partial law work	15	8	3,300	6,528	4,455
Law school & partial library work	6	4	2,220	6,391	3,890
Library & law school graduates	18	5	2,857	7,750	4,608

from a study of these tables. However, in drawing any conclusions the limitations of the study must not be overlooked. Of primary importance is the fact that the small number of librarians' salaries reported tends to give only a partial picture. A further caution is emphasized—these tables do *not* represent ideal standards but are actual salaries received, and neither the

Law Library Journal nor the compiler advocates the use of the tables as standards. The statistics make available for consideration a cross section of salaries and it is hoped that many law librarians may use the statistics as a measuring stick for an evaluation of their own compensation and the opportunities available for their qualifications.

The New Boston College Law Building

by STEPHEN G. MORRISON, *Librarian*

Boston College Law Library

In the relatively brief history of the Boston College Law School, the years 1929-1954 represent a period of temporary quarters in downtown office buildings and unceasing and fruitless attempts to adapt inadequate facilities to the operation of a modern law school. Add to this a major depression which greeted the founding of the Boston College Law School and then World War II and a later undeclared war while the school was still struggling to achieve the position that it now occupies and some appreciation may be gained of the turmoil and effort which was compressed into this period. Happily, the goal for which all concerned were struggling was finally realized when Boston College Law School celebrated with fitting ceremonies in the Fall of 1954 the dedication of Saint Thomas More Hall, our first permanent home in a new law building and the twenty-fifth anniversary of the founding of the Law School.

But even the dreams and plans and unceasing effort to attain this goal, important though they were, were not enough; it was due to the unselfish generosity of the many friends of Boston College that the necessary financial support was obtained to make the construction possible. When the decision was made to build it was decided that the Law School should

leave downtown Boston and take its place near the campus on University Heights. At the foot of this campus, whose spired buildings form a beautiful backdrop, the Law School was erected. Convenient to transportation lines, Saint Thomas More Hall is one of the most modern and functional law school buildings in the country with facilities surpassed by none.

Saint Thomas More Hall is in contemporary style reflecting the Gothic influence and consists of three units arranged roughly in the shape of the letter Z with each unit consisting of three levels. The main entrance is located at the right end of the middle unit and enters on the second level. To the left of the entrance is the main corridor off the right side of which are the Dean's office and the administration offices. The left or outside wall of this corridor is substantially all glass and thus affords a striking view of the buildings above us on University Heights. On the upper level of this unit is located the beautifully paneled Miles A. McLoughlin Memorial Court Room seating one hundred and with appointments which were the envy of the visiting judiciary on the occasion of the dedication ceremonies. Next to the Court Room is located the office of the Student Bar Association. On the first level of this unit provision was made for a catalog

room, the *Annual Survey of Massachusetts Law* (our new law review), mimeograph and record storage rooms, and a student typing room.

At the end of the main corridor noted above is the entrance to the Thomas J. Kenny Memorial Library. The reading room seats two hundred and forty readers and is richly paneled in birch with harmonizing alcove-type wooden book cases arranged along both sides of the reading room with a capacity of about 10,000 volumes. The reading room is an especially pleasant place in which to work since the floor to ceiling windows in each alcove allow the maximum use of natural light. To the right on entering the reading room is located the loan desk and adjacent to it in an alcove are recessed catalog cases with a capacity of over 700,000 cards. Behind the loan desk and separated from it by the stairway to the main stack room is located the librarian's office also paneled in birch with harmonizing built-in book cases. Flanking the librarian's office on one side is a two-level reserve stack room where materials most frequently requested are shelved and on the other side the Clement J. Maney Memorial Room. Here a student may relax from his studies and enjoy a cigarette or, if desired, browse through the collection of quasi-legal material gathered together here for light reading. On the upper level of this unit provision was made for sixteen individual faculty offices and a faculty library. At the end of the corridor on this level is the Mr. and Mrs. Vincent Roberts Memorial Faculty Lounge. This room is

indeed one of the show places of the new building with its oak paneling, comfortable lounge chairs, imposing 19 foot, oval shaped director's table which is used for faculty meetings and finally a beautiful Italian marble fireplace. On the first level of this unit is a two-level stack room equipped with bar-type steel shelving with a capacity of 200,000 volumes. On the mezzanine level of this stack room provision has been made for thirty-six study carrels.

The third unit is also directly approached through the main entrance of the second level with direct access to a main corridor off which are two regular classrooms each seating ninety six persons and at the end of the corridor an amphitheater type class room seating one hundred and twenty persons. The upper level contains an equal number of class rooms both as to size and type. The lower level is devoted to a spacious modern cafeteria seating three hundred people. At the end of the cafeteria and separated from it by a short corridor is the William J. O'Keefe Memorial Student Lounge furnished with comfortable lounge chairs and affording a comfortable place where law students may gather to carry on the interminable discussions which are such an integral part of the study of law.

The many visitors who have toured our new building have been unstinting in their praise of its design and appointments but we feel that the physical plant, while it represents one of the most functional and efficient buildings of its type, is but the means by which a finer and more honored law school can be achieved.

Bilali — His Book

by ELLA MAY THORNTON, *Honorary State Librarian*
Georgia State Library

One possession of the Georgia State Library—a mysterious manuscript—is unique. It was received in 1932 from the family of Francis Robert Goulding, a noted Georgia writer who had it from the original owner himself in 1859. A high authority believes it to be the only piece of American Arabica in the original.

It was written by Bilali (sometimes called Bu Allah or Ben Ali), once a slave on Georgia's Sapelo Island, in a small skin-covered book in a strange script.

Europeans and other writers, drawing upon eye-witness facts as well as upon legend and folksay, have told of this magnificent Mohammedan "headman" who, together with his large family, spoke French, English and a form of Arabic, observed all the religious rites of their faith, and in many other ways bore the unfamiliar stamp of their origin and once higher worldly position.

Bilali was in direct charge of about five hundred of his fellows and invariably gave a good account of his stewardship. When the British dropped anchor off-shore in the War of 1812, he warningly said, "I will answer for every Negro of the true faith but not for these Christian dogs of yours." Nonetheless, he ably organized the Negroes for defending life and property.

Another time, in 1824 when a terrible hurricane swept down in its greatest fury upon Sapelo, in the absence of the plantation owner, Bilali controlled the panic-stricken people, and with the aid of the "drivers", collected every man, woman and child in the substantial two storied cotton and sugar houses so that not a single life was lost. Several European visitors to the Georgia Sea Islands in the early half of the nineteenth century left written accounts of seeing Bilali. The novelist, William Caruthers, may have encountered him in his visit before 1834.

In Caruthers, *The Kentuckian in New York* (1834), there is introduced a Negro called Charno who, being asked to demonstrate his ability to write, set down nine lines of script which are reproduced in the book. These lines are clearly akin to the characters of the Bilali manuscript. However, this fictional scribe could have been any one or a composite of several Africans of that day who lived on Georgia plantations and who could write.

Over the years, this writer sought to have the manuscript deciphered. Newspaper stories and other means of publicity brought to the State Library individuals of some of the Arabic-speaking countries, then living in Atlanta or visiting from nearby states.

With one accord they made out something about "ablutions before prayer" and then they could go no further, expressing the belief that the writing was in some local or confused dialect.

At last in 1939, a copy of the text was taken to Northern Nigeria by Joseph H. Greenberg under the auspices of the Social Science Research Council. His findings are set forth in *The Journal of Negro History*, July 1940, volume 25, number 3, and are summarized as follows:

One group of learned natives declared that the writing was "by jinn (spirits)." Believing this, the document became taboo to them. But with help gotten from other authorities, it was determined, despite faulty spelling, that the pages were filled with passages written in the Maghrebine script, from an outstanding Muslim legal work by Ibn Abu Zayd who died in 389 A.H. or 1011 A.D.

Commonly known as the "Risalah" which means simply "a treatise", the real title in Arabic of this work translates into a whimsical "First Fruits of Happiness." This clearly suggests the inseparable relation that existed between the law and religion of the Prophet since the "Risalah" was of

the Malekite school, one of four schools or rites under the sect called Sunnis. The Muslim world was divided into two great sects by the schism following the martyrdom of the great Caliph, Ali.

It was further theorized with reasonable certainty, that Bilali had been a young student in Africa, that he had learned his lessons by rote, which was the first step in the teaching method, and that he had set down what he remembered, imperfectly, but as best he could. At all events, Joel Chandler Harris in his fine book about the "son of Ben Ali", entitled *The Story of Aaron*, was not so far wrong in attributing an autobiographical character to the document.

Has it not told us that Bilali, sleeping the long sleep in Georgia soil with his beloved Koran and his prayer rug beside him, had a greatly different life and status in that far distant time and place? And more than that, that he was a disciple in that Muslim school of learning which the erudite Professor John Henry Wigmore aptly describes as "the most highly organized plan of legal education and judicial training that any of the world's legal systems have ever known"?

Some Writings of Max Radin of General Legal Interest

by ALEXANDER MARSDEN KIDD, *Professor Emeritus*
School of Law, University of California, Berkeley

Max Radin (1880-1950) was one of those persons, very few in this country, who took if not all knowledge for his province at least a good part of it in the humanities and social sciences. He was a scholar in the ancient languages and well equipped in several of the modern. His interests ranged over psychology, logic, philosophy, history, anthropology, archeology, philology, as well as law.

He not only read with incredible rapidity but digested the material and wrote up the results of his research with the same bewildering speed. It is a task merely to collect his writings on such a variety of subjects. To appraise the results and perpetuate in usable form the parts worth preserving will require several scholars in different fields.

All that is attempted in this article is to take a part of his writings on some specific phases of the law. It is not necessary to discuss his articles on practical law problems. They cover a wide range. He gave perhaps most time to sales, bankruptcy, and creditors' rights. These articles can be found by the usual routine in working up a case.

One of Radin's interests was in what he called the "permanent problems of the law." Some of these have been the

subject of controversy for thousands of years and are still unsettled, although the written discussions fill libraries. Most of us have neither the capacity nor the time to clarify our thinking by the exploration of this mass of material. Radin was able, with his knowledge of languages, history, philosophy, and allied disciplines to summarize this material and analyze it.

As has been said, great thinkers usually think wrong. Their very brilliance and ingenuity and perhaps an exhibitionist desire to attract attention lead them into extreme views. Radin could take this material, apply his scholarship with common sense and the saving grace of humor, and present the problem interestingly and in brief compass. These writings may not, although they sometimes will, give the lawyer the precise case he needs for his brief; but they will help him to understand why the authorities are in conflict and point the way to a rational solution. One of these permanent problems is:

STATUTORY CONSTRUCTION¹

Every lawyer of any practice has had this problem many times. One

¹. *Realism in Statutory Interpretation and Elsewhere*, 23 CALIF. L. REV. 156 (1935); *Statutory*

side cites the canons of construction and the cases on which it relies: *expressio unius est exclusio alterius*, *ejusdem generis*, plain meaning, meaning of the words, intent of the legislature, etc. The other side proceeds to cite perhaps an equal number of cases where the court has disregarded each canon, as it believes, for good cause. The lawyer feels that the court will probably decide his case upon some ground of policy, conscious or unconscious, that appeals to it; but that he must be able to put his argument in the conventional language of the canons of statutory construction. He must footnote his argument with a parade of cases which in this particular situation justify the application of the canons or a departure from them.

How did all this conflict arise? Some of it is inescapable but a great deal of it can be accounted for. In evaluating precedents one must consider the organization of the government and the legal system in which the court operates. In Lord Coke's time it was the common law that was the perfection of reason. Any statute was simply to correct some trifling imperfection of the common law and to go no further. It will be remembered that Professor Langdell did not want the statutes in the law library. So we have the rule that statutes in derogation of the common law are to be strictly construed. An interesting example of this construction is given by the late John Norton Pomeroy.² Professor Pomeroy agreed with Sir Fred-

erick Pollock in his criticism of the Field Civil Code.³ Professor Pomeroy recommended a uniform system of interpretation that all the provisions of the Civil Code were to be regarded as "simply declaratory of the previous common law and equitable doctrines and rules, except where the intent to depart from those doctrines and rules clearly appears from the unequivocal language of the text." Consciously or unconsciously, this seems to be what the Court has done and rightly under the circumstances.⁴ Legislation also has corrected some of the defects. Statutes have now overwhelmed the common law and, where thousands of them are passed having little or nothing to do with the common law, narrow construction and the cases under this canon have no bearing.

It would be helpful if our canons of interpretation could always be derived from the government organization. Unfortunately the logic of this is not followed logically. An omnipotent Parliament in England has succeeded the earlier feudal organization with its reciprocal rights and duties to which Coke appealed. Yet in England the courts won't even consider the opinion of the draftsman of a statute.⁵ In modern Continental courts where the legislature is not omnipotent the courts nevertheless consider reports, debates, successive drafts, opin-

3. "This code is in our opinion, and we believe in that of most competent lawyers who have examined it, about the worst piece of codification ever produced. It is constantly defective and inaccurate, both in apprehending the rules of law which it purports to define and in expressing the draftsmen's more or less satisfactory understanding of them." 2 CALIF. L. REV. 366, n.94 (1914).

4. Leary, *John Norton Pomeroy, 1828-1885*, 47 L. LIB. J. 138, 141 (1954).

5. *Hilder v. Dexter*, [1902] A.C. 474, 477.

Interpretation, 43 HARV. L. REV. 863 (1930); *A Short Way with Statutes*, 56 HARV. L. REV. 388 (1942).

2. THE "CIVIL CODE" IN CALIFORNIA (1885).

ions, and everything else in an attempt to find out what the legislature intended.

In the United States, where the ultimate power is in the people and has been expressed by a Constitution assigning the functions of the executive, legislature and judiciary, there is some tendency to reject the aid of debates, etc. Often, however, they come in through the side door by way of history. As Radin points out, the legislative act may be so clear and so simple that there is no question. Where it is not, the preamble, reports, debates, drafts, etc. may shed some light and be controlling.

In other cases they may not, and it is just these other cases that frequently come before the courts. Reports to the legislature may have been disapproved in part. The speakers may have expressed only their own opinions. In many bills most of the legislators, often numbering in the hundreds, had no opinion at all. To look for the intention of the legislature is to look for something that in many cases does not exist. The legislators never thought of the point.

Determining the meaning of the legislature as the governing principle in all cases has a theological and a literary origin with reams of learned writings on the subject. If the words are the words of the Almighty, His intent alone is relevant. If it is a literary production, it may be expressed in symbolic language but what the author intended is what we are trying to find out. "A statute is neither a literary text nor a divine revelation."

This brings us to the core of Radin's theory on statutory construction; to

wit, the purpose and the results. Of course the purpose cannot in many cases be completely fulfilled. There may be several purposes, some of them conflicting. "To interpret a law by its purposes requires the court to select one of a concatenated sequence of purposes, and this choice is to be determined by motives which are usually suppressed."⁶

The purpose of the 18th Amendment and the enabling acts was to wipe out the use of alcohol for beverage purposes. Given enough men and the power to break into any suspected place, a chief of police could practically eliminate the illicit traffic and the same would go for narcotics, gambling and prostitution. There are, however, other interests, and the purposes of the legislature must be limited in operation by those other interests. Often the legislature recognizes this and is careful to provide a procedure for carrying out the purpose, a procedure which must not be transgressed. The purpose of tax laws is to raise money for the government but it does not follow that the courts do or should decide every case in the way that will bring in the most revenue.

Radin borrows from the logicians the terms "determinable" and "determinate". Where the language itself with the ordinary canons of construction and sources of interpretation is adequate, there is an end of the matter. There are cases, however, for which the legislature has not expressly provided and which may or may not be held to come under the general language. The legislature could not think of every possibility and it could

not anticipate every situation which might arise. The statute is a "determinable." It could cover many "determinates." "The 'plain meaning' of the statute offers us a large choice between a maximum and a minimum of extension. The 'intent of the legislature' is a futile bit of fiction. The 'purpose' requires a selection of one of many purposes. The 'consequences' involve prophecy for which the courts are not particularly prepared, and in which, by any calculus of probabilities, several choices of results are open."⁷

Radin expressed an opinion on provability of a claim in bankruptcy for rent on a lease. The Supreme Court of the United States decided differently. Radin agreed the Court had the constitutional right to overrule a law teacher's opinion.⁸ He pointed out, however, that ingenious lawyers draw leases to give the landlord the advantage of performance where favorable or termination where unfavorable. Each of these clauses presents a new problem, a "determinate" under the general "determinable" of provable claims. The Court must decide after taking into consideration the rights of other creditors and any other relevant factors.

The interpretation of a statute by its purposes and results does not enable a lawyer to predict the ultimate decision, but it does eliminate a lot of talk about the intention of the legislature, plain meaning, and other rules which are really irrelevant in this class of cases. As Radin expressed it "It is curious that when courts might tread the firm ground of fact, they prefer

the more dexterous, but also more perilous technique of the flying trap-eze."

Probably most lawyers will agree that where Congress prohibits the importation of an alien for labor or service of any kind it would not mean to prohibit the importation of a clergyman although he does perform service and labor in both a general and a special sense.⁹ Nor has there been too much dissent from the decision that transportation of a woman for the purpose of prostitution or debauchery or for any other immoral purpose applied to transportation for illicit relations without any commercial element.¹⁰ There is more doubt about this case as the court not only had to disregard the legislative history but also the results of the use of the statute for blackmail.

As a matter of fact, prosecutions have been discouraged where there was no commercial or other special circumstance in the facts. A recent California case¹¹ presents the problem that the defendant offered bribes to the president of the Board of Police Commissioners, the city attorney, and the executive attorney of the city of Los Angeles. Is he guilty under a statute which makes it a crime to offer any bribe to any executive officer of the State of California? Does 'officer of this state' mean officer in this state? Several other statutes specifically included county, city and other municipal officers. There is also the rule of

9. *Church of the Holy Trinity v. United States*, 143 U. S. 457 (1892).

10. *Caminetti v. United States*, 242 U. S. 470 (1917).

11. *People v. Hallinan*, 277 P. 2d 393 (Cal. App. 1954).

7. 43 HARV. L. REV. 881 (1930).

8. 23 CALIF. L. REV. 156 (1935).

strict construction of penal statutes. On the other hand, earlier courts had said the statute included municipal officers. The point may have been dictum in the other cases but the statute was not amended by reason of this dictum. Is the case to be decided by juggling the above canons? The majority of the court affirmed the conviction. The purpose was to punish attempts at bribery and no evil results would seem to follow from carrying out this general purpose.

In other words, the courts in interpretation are giving effect to the generally accepted social values. The framers of the Statute of Frauds must have known that some just claims would be defeated by the application of a statute requiring writing. The legislature, however, made no exceptions. The courts have made many, resulting in what a writer has called "the judicial repeal of the statute of frauds." If, which Radin questions, the silence of the legislature is to be given effect the people seem satisfied with the decisions of the courts.

There will probably be no agreement in some cases. The legislature has provided for the descent of property where there is no will. Assuming there is one heir, the property would go to him. Suppose he murders the ancestor? Is it spurious interpretation to say the heir cannot have the property? One example Radin gives never came to court. The California legislature provided a bounty for coyote scalps in order, as all agree, to cut down the activities of the predatory coyote. Coyote farms were established to raise coyotes for the bounty. Assume an auditor refused to approve a claim for

a farm coyote and *mandamus* is brought. Perhaps some day the courts will consider purpose and result even in a case like this.

In short, statutes are general in their scope. Special situations foreseen and unforeseen may come under the statute. The extension of the statute may be narrow or broad. These are the cases on which the ordinary canons of construction usually shed no light. Here the judiciary must legislate and exercise a wise statesmanship to give effect to the purpose of the legislature, the results of the decisions and the other interests involved.¹²

THE ENDLESS PROBLEM OF CORPORATE PERSONALITY¹³

Human beings form groups for many purposes. Joining together enables them to do what no one alone could do, nor each one in the group acting separately. Power is increased but it is the power of the individuals comprising the group. They have not created any new superman. It may be any organization such as a club or a church

12. In this connection it may be noted that in November 1942 Radin cited the case of *State ex rel Department of Agriculture v. McCarthy*, 238 Wis. 258, 268, 299 N.W. 58, 64 (1941). Here the legislature had passed a milk control act to expire December 31, 1941. The legislature adjourned June 6, 1941 without extending or repealing the act. The Department attempted to enforce the act before its expiration. The trial judge, Joseph R. McCarthy, now a senator from Wisconsin, refused to enforce the act as it would soon expire and its enforcement would work hardship on the parties affected.

The Supreme Court said: "We are cited to no authority and we find none which justifies a court in suspending the operation of a statute duly enacted by the Legislature on the ground that it will work a hardship if it be enforced. Whether or not there shall be a law under which the production and sale of milk should be regulated is a matter wholly within the province of the Legislature. When a court undertakes to say that a law shall not be enforced, the court takes over the legislative func-

gains the affection and loyalty of its members. It is, however, the affection and the loyalty of the members toward the group. The group itself can have no affection or loyalty.

Now, if the state incorporates the group, has it created a new person? Modern corporation statutes have usually solved this problem sensibly by treating the corporation as a person for substantive and procedural purposes so far as necessary or convenient, but no further.¹⁴ The corporation has continued existence independent of the natural lives of any of its members. The members are not liable for the debts of the corporation except to the extent of property they have put into it. For accounting purposes the corporation can be treated as a single unit, also for the purpose of suing or being sued. Is it necessary to go further and say another person has been created? Why should the corporation be able to claim for its members special rights of personality not enumerated above?

As the early writers on corporations said "The corporation has no body to be kicked and no soul to be damned," yet millions of dollars have turned on

tion and in effect declares that the act of the Legislature should be suspended. The enforcement of any regulatory law requires a change in the course of conduct of the persons or business regulated, otherwise there would be no call for regulation. We find no justification whatever for the position of the court with respect to the enforcement of this statute. If the court was of the view that the exigencies of the case were such that the matter should be speedily disposed of, he should have set the case down for an early trial."

Incidentally, the trial judge made an oral statement of his reasons for so deciding the case but ordered the reporter to destroy these notes. The Supreme Court said: "Ordering destruction of these notes was highly improper."

13. 32 COLUM. L. REV. 643 (1932).

14. BALLANTINE, CORPORATIONS 2 (rev. ed. 1946).

the answer to this question of corporate personality and many more can be anticipated.

In earlier centuries monks in holy orders were civilly dead and incapable of owning property. Could they band together to form a corporation which could own property? Can the nationals of State A form a corporation in State B so that in the event of war between the two states persons in State B can deal with the corporation without violating the statutes against trading with the enemy?¹⁵ As Radin points out, the corporation is a Charlie McCarthy. It seems to act and speak but it is always the act and voice of a natural person.

FUNDAMENTAL LEGAL CONCEPTIONS

About 40 years ago the late Wesley Newcomb Hohfeld published his article with the above title.¹⁶ His purpose was modest. The conceptions did not decide cases, they were intended as a working tool to enable the lawyer to analyze his problem and to that extent make a sound solution easier. *Fundamental Legal Conceptions* was made the basis of legal education in some schools. Much controversy arose and, largely as a result of the confusion, the merits of the analysis seem to have been abandoned. Radin took the system and made some necessary revisions.¹⁷

The article must be read to understand its implications. A few illustra-

15. *Continental Tyre Co. v. Daimler Co.* [1915] 1 K.B. 893.

16. *Some Fundamental Legal Conceptions As Applied in Judicial Reasoning*, 23 YALE L. J. 16 (1913).

17. *A Restatement of Hohfeld*, 51 HARV. L. REV. 1141 (1938).

tions may show something of the method. If *A* gets a judgment against *B* for personal injuries, *A* has a demand right to the money from *B*, or exactly the same thing may be expressed by saying that *B* has a duty to pay *A*. The right which *A* has grows out of his prior right against unspecified persons that none of them shall damage him by their carelessness.

If *A*'s judgment against *B* was on a contract, the prior right arose from the agreement entered into by *A* and *B*. If the court decides in favor of *B*, it means that *B* is privileged not to pay *A* and *A* has no right against *B*. Where *A* has the demand right against *B* on a judgment in contract arising out of the right he had under the contract, that contract may have been entered into by *B* making an offer to *A*. This gave *A* a power to impose a duty on *B* by accepting the offer. If, however, the offer had been properly revoked before acceptance by *A*, *A* had no such power and *B* had an immunity from an acceptance by *A* imposing on him a duty.

The judgment of *A* against *B* created a power in *A* to request execution and a power in the sheriff to levy execution on *B*'s property. If the judgment of *A* was against the *B* corporation, the power to subject the corporation property to a judgment arises from a power in the corporation agent to create such liability; and that power directly or indirectly comes from the corporation directors; and their power from some officer of the state, and the chain of powers may go further back.

What all this come down to is that the demand right or duties, or no demand rights or privilege rights, and

the power to create these demand rights are the atoms out of which all legal interests come into existence. When properly analyzed, as pointed out before on the personality of corporations, there is no legally relevant relation between a human being and an abstract idea like a corporation. Every legal relation, and the only legal relations, are among human beings. Trace back so-called actions *in rem* against property and they have no meaning except as they affect human beings.

NATURAL RIGHTS AND NATURAL LAW¹⁸

The theory of natural rights has a long history and has had important practical effects. The term has been used with more than a dozen meanings. No one principle can embrace them all. The most inclusive seems to be that natural law is the law advocated by someone who does not like the existing law. In view of the fact that the theory today has considerable theological support it is interesting to note that its earliest use apparently was to get away from an existing system supposed to have been divinely revealed.

Natural law in the sense of principles which all men hold is non-existent, especially in the earlier history of mankind. Justice means the right of each to his own, but if existing law may give a right to own slaves it certainly does not suit everybody. To those who have everything justice may

18. *Natural Law and Natural Rights*, 59 YALE L. J. 214 (1950); *A Juster Justice, A More Lawful Law*, *LEGAL ESSAYS IN TRIBUTE TO ORRIN KIP McMURRAY* 537.

be shocking, *summum jus summa injuria*.

The community sense of justice at any particular time may seem outrageous at other times either in its severity or in its leniency. At any one time the community may differ in its opinions. Radin cites the ballad of Frankie and Johnny as an illustration. According to one version of the ballad, however, popular sentiment rejoiced in Frankie's acquittal. In another version, the extreme penalty of the law, capital punishment, was approved.

Radin traces interestingly the development in different civilizations of what a wit has called "justice tampered with mercy." The general trend, however, has been for mercy to catch up and become incorporated in justice, only for new gaps to be discovered requiring again the exercise of mercy.

The solution has been attempted to decide each case on its facts.¹⁹ Experience shows that because individual ideas of justice are different inequalities are created. And the uncertainty of what will happen, makes it necessary that there still be a rule of law and an occasional hard case. As Radin shows, there has always been in criminal cases somewhere a prerogative of pardon; and it could be added that the judge, jury, indeterminate sentence, probation, parole all give opportunity to modify the strictness of the law to what seems best in the particular case.

So far is this carried at the present time by writs granted by single judges that in cases where the defendant has

money or influence the execution of the sentence may be indefinitely postponed or set aside entirely. Even in civil cases, stay laws, exemption laws, bankruptcy laws have all contributed to work out a juster justice. It is only, however, when the departure from the strict rule can be stated in a law of general application that the "juster justice" can become practical.

THE PROBLEM OF THE JUDGE AND THE LAWYER²⁰

The just decision of a case involves the reproduction of a past event. How can this difficult task be accomplished? At a certain stage of society it was simple. Through proper ordeals God would decide. Of this method only the oath remains as a rather unimportant survival. In the typical personal injury case where liability depends on fault the reproduction is peculiarly difficult. Workmen's compensation eliminates the proof of negligence, the most difficult element. Further legislation along this line has been suggested with a fixed compensation for all personal injuries.

Cross examination is the time honored device for testing the accuracy of witnesses. Modern psychology including the lie detector is also occasionally used. It is not generally recognized, however, how often the problem is dodged. In some places the trial was really a contest between the opposing lawyers and the best advocate won.

The equity system of written proofs without the appearance of witnesses was a decision on the written proofs, not the facts. Presumptions, burden

19. *The Good Judge of Chateau Thierry and His American Counterpart*, 10 CALIF. L. REV. 300 (1922).

20. *The Permanent Problems of the Law*, 15 CORNELL L. Q. 1 (1929).

of proof, rules of evidence, and other technical devices avoid a decision on the merits. The order of death in a common disaster is sometimes solved by assuming simultaneous death—the most improbable of all possibilities.²¹

The determination of a past event is the problem of the judge. The problem of the lawyer is to figure out how the judge will decide what to him will be a past event. It may present questions both of fact and law. Holmes' definition of law was "a prophecy of what the courts would decide." Radin and others have extended this to include all official action. As we have seen, the interpretation of statutes and the reproduction of a past event are not exact sciences, and therefore uncertain. This is not true of the law as a whole. Holmes, as an appellate judge, saw only the controversial matters presented in his court, but the argument of appellate court cases is only a small part of the work of most lawyers.

It is suggested that a better definition of the law can be given than those of Holmes or Radin. The law is

21. The Anglo-American judge has very limited powers of research and investigation. There may be good reasons for this, but it accounts in part for popular distrust of litigation. "But when half of those who enter a court-room fear that they will not get justice, and the other half fear they will, we may say that the atmosphere is not that in which the best scientific methods of research can be readily applied." *The Permanent Problems of the Law*, 15 CORNELL L. Q. 13 (1929).

what the lawyer does; and when we ask what the lawyer does, his work is perhaps more accurate and more certain than that of most businesses or professions. The lawyer in his daily work prepares deeds, mortgages, bond issues, wills, estate plans, contracts, gives advice, etc. Experienced lawyers can look back and say that with almost 100% accuracy their work has effectuated the purpose for which it was intended. That purpose is the facilitation of the work of industry and commerce. Within the broad field the law permits for arrangements not violating public policy, it is possible to chart a course for the future that by no reasonable probability will ever come into question by officials. It is only when a past event must be reproduced or a government regulation must be interpreted that uncertainty arises.

* * *

The writer makes no apologies for the errors and inadequacies which will no doubt be found in the above exposition. His purpose will have been accomplished if attention has been called to the value of Radin's work on the permanent problems of the law and the desirability of a collection of his work in usable form. Radin has brought in manageable compass and readable style the history and philosophy of thousands of years of legal controversy.

Questions and Answers

Compiled by LAW LIBRARY ASSOCIATION OF GREATER NEW YORK

The editors will attempt to find answers to questions regardless of their suitability for publication, and questions which seem to need immediate replies will be answered by mail prior to publication in the Law Library Journal. Address questions to Mrs. Marian G. Gallagher, Law Librarian, University of Washington Law Library, Seattle 5, Washington.

This issue was compiled by a Committee of the Law Library Association of Greater New York, composed of Lionel J. Coen, Freada Coleman, Virginia Gray, Eileen Murphy, and Eugene Wypyski. Answers were contributed by Joseph L. Andrews and members of the committee.

I

Question:

Evidence of legislative intent of Federal legislation may be compiled from various sources. Are there any comparable sources for State legislation?

Answer:

We do not feel qualified to answer for any other state but New York. We understand that there is more available material in New York than elsewhere. We would, however, like to hear from others regarding the sources in other states. As for New York, the following from the New York Legislative Reference Library is pertinent:

"The debates in the Legislature are recorded by the stenographers of the respective Houses. These notes are not transcribed nor issued except in response to requests by individual legislators as prescribed in the Rules of the Senate and the Rules of the Assembly.

There are no printed records of proceedings of hearings of standing committees of the legislature, nor of their reports on particular bills.

The journals of both Houses are printed; the records of votes on each measure is listed, but they do not contain *verbatim* proceedings. Hearings of special joint legislative committees are available to the extent that they are deposited in the Legislative Reference Library of the State Library (and also to the extent that they are available in the Legislative Library of the State Capitol).

The Legislative Documents are printed. These publications include reports of the various departments, institutions, Special Commissions and Joint Legislative Committees presented to the Legislature.

Bill jackets for each legislative bill enacted into law during the period 1921-1944 are available for consultation in the Legislative Reference Library of the New York State Library. Those for 1945 will be made available on July 1, 1955; on July 1st of each succeeding year, bill jackets for a succeeding year will be opened for public use."

The bill jacket, by the way, contains all of the information available to the Governor at the time he has the bill under consideration. It, thus, consists of anything from a single study to a series of reports, studies, and correspondence.

It should be noted that the *Reports and Studies of the Law Revision Commission* and the *Judicial Council* are

among the documents presented to the Legislature, and therefore available in the Legislative Document set as well as separately.

Since 1946, The New York Legislative Service, Incorporated, has published *The New York Legislative Annual*. The *Annual* attempts to bring together various primary source documents bearing on the purposes and forces behind enacted legislation. In most instances, these include memoranda from the agency having to do with the subject involved, or from a private organization sponsoring the measures. The Governor's memoranda are also included. These, last, are also printed in the *Public Papers of the Governor* published annually. However, these volumes are at best two years late. The current volume covers the memoranda for the year 1952.

Since 1951, *McKinney's Session Laws of New York* has contained selected memoranda from various official sources on enacted legislation. The New York State Bar Association, The Association of the Bar and The New York County Lawyers Association all publish the reports of their respective Legislation Committees on pending legislation. While these, of course, state only what the committees think the legislation will do if enacted, nevertheless, they can be helpful. They are often included in the bill jacket.

Therefore, while no complete record or legislative history is available, quite a bit of evidence of legislative intent can be obtained in New York.

Question:

Where can I find whether a par-

ticular organization has ever been designated by the Attorney General of the United States or the Loyalty Review Board as subversive?

Answer:

According to our information, there is no up-to-date list accurately specifying all those organizations, which at one time or another have been designated by the Attorney General, or later by the Loyalty Review Board, to be subversive. You have to piece the story together. The best start is provided by consulting the *Code of Federal Regulations*, Title 5, Chapter 2, Sec. 210.15 App. A, 1949 edition. Numerous supplements were published from time to time in the *Federal Register* and you can find the citations in the 1954 cumulative pocket supplement to the same Chapter, but a new list was issued by the Loyalty Review Board in 1950. The situation became complicated when Chapter 2 was revoked in 1953 (18 *Federal Register* 5699) and a new list re-designating certain organizations as subversive in connection with the Employee Security Program was published in 18 *Federal Register* 2741. This was supplemented in 18 *Federal Register* 4240, 6364; 19 *Federal Register* 655. There was a composite list published in Vol. 2, pp. 87-94 of *Oklahoma Libraries*, published by the Oklahoma State Library, which is, unfortunately, out of print. In addition to this, valuable information stating when a particular organization was designated and what changes in designation have occurred, are found in the *Federal Personnel Manual* on Page Z1-409. The date of this list is

not stated, but it would seem to have been compiled sometime in May 1952 or later. It should be noted that the designation of organizations by the Attorney General and the Loyalty Review Board is not the same as the listing of Organizations as subversive by the Committee on Un-American Activities (See its *Guide to Subversive Organizations and Publications*, 1951).

3

Question:

Frequently, in order to evaluate an early New York opinion, it is necessary to know the jurisdiction of the court rendering it. Is there any readily available description of the court systems in early New York?

Answer:

There is a complete, though brief, survey of all of the courts of New York from the earliest times, together with an annotated bibliography of the New York Reports in *Abbott's New York Digest*, 2nd Series, Volume 6, Pages 143-202. This question brings to our attention the great many articles and bibliographies hidden away in unlikely sources. It might be of inestimable value to do analytics and add them to the information file. This would be especially true of the valuable articles and bibliographies contained in the *Federal Rules Decisions* and *West's Louisiana Statutes Annotated*. The very helpful guide to the special features and articles contained in *Louisiana Statutes Annotated* is printed at the beginning of Volume 1 of the Index of that set.

4

Question:

Frequently the *United States Code* contains a section which gives some executive agency the power to issue regulations. How can one obtain the pertinent regulation without using the sometimes inadequate Index of the Code of Federal Regulations?

Answer:

The *Code of Federal Regulations* 1949 Edition, Title 2, contains, among other valuable tables, a cross reference table from *United States Code* to the *Code of Federal Regulations*. This is, of course, supplemented by the pocket parts and the Codification Guide of the *Federal Register*.

5

Question:

Is it necessary for office libraries to keep the superseded editions of the various statutes, and for how long should they be retained?

Answer:

The answer to this question depends upon the accessibility of a large institutional library. If such a library is near by, an office library should not keep superseded editions of statutes, since they may be consulted at the institutional library on the infrequent occasions when they are needed.

However, if there is no large library nearby, the superseded editions should be kept as long as there is space for them. If it should become impossible to keep all of them, the oldest should be discarded first.

In discarding the old editions, large

libraries in the state should be advised so that they may have an opportunity to request volumes which may be needed for replacement purposes.

6

Question:

If it is decided that the superseded editions of statutes be kept, is there any check-list available of the superseded editions; for instance, of the various titles of *U. S. C. A.*?

Answer:

There is a publication entitled *Check-List of Statutes of States of the United States of America, including Revisions, Compilations, Digests, Codes and Indexes*, which gives this information for each state. It was compiled by Grace E. Macdonald for the Public Document Clearing House Committee of the National Association of State Libraries, in 1937. A twenty-year supplement to this check-list is in process of preparation by the Committee on Cooperation with State Libraries, the chairman of which is Virginia Knox of the Connecticut State Library, Hartford 1, Connecticut.

As to revisions of individual titles of sets such as the *U. S. C. A.*, a check can be made through the copyright notice appearing on the reverse side of the title page. Of course, to find out if you have the latest edition of a title, it would be necessary to check with the publishers.

Some libraries retain the pocket supplements for each year, so that by inserting the pocket supplement for a particular year in the correct edition of a title, the laws as of a certain year can be ascertained.

7

Question:

How can the annotations in the *District of Columbia Code* be brought up to date?

Answer:

In order to bring a particular section of the *District of Columbia Code* up to date, it is necessary to obtain the source or reference to the section as it was originally enacted and appears in the *Statutes at Large*. This reference is found at the end of each section in the *District of Columbia Code*, and includes the date, volume and page reference, and chapter of the original enactment. *Shepard's Citations* covering the United States Statutes contains a section on the *Statutes at Large* not in the *United States Code*; this section is arranged by year and date of enactment followed by chapter number, volume and page reference. The case approach may also be used to uncover cases dealing with the statute in question. The *District of Columbia Digest* includes all cases concerning the District and is classified according to the West "key system".

CURRENT COMMENTS

Compiled by BETTY VIRGINIA LEBUS, Librarian
Indiana University Law Library

The *Universal Copyright Convention* is discussed in the February, 1955 issue of the *Bulletin of the Copyright Society* (vol. 2, number 4).

The *Illinois Bar Journal*, volume 43, number 6, Supplement, dated February, 1955 is devoted to the publication of "Effective Law Office Management" a series of six lectures presented by the College of Law, University of Illinois, at a practice course for lawyers held in Urbana on November 26, and 27, 1954. The lectures were as follows: *Fundamentals of a Law Practice* by James G. Thomas; *The Changed Order of the Client-Lawyer Relationship* by Morris I. Leibman; *Law Office Records and Procedures* by Francis D. Conner; *Lawyer's Fees* by Frank E. Trobaugh; *Library Supplies and Equipment* by Charles A. McNabb; and *Lawyers' Tax Problems* by Jackson L. Boughner. A bibliography on office management, a list of publishers and agents, together with a list of firms that handle office and library furniture, equipment and supplies has been prepared by Mr. McNabb and may be obtained upon request to the *Illinois Bar Journal*.

Harvard's remodelled library offices were described by Librarian Borgeson in the February, 1955 *Harvard Law School Bulletin* at page 8. The library was assigned an area approximately 50' x 60' in the former Court Room in Langdell Hall. Flexibility, utility and attractiveness were guideposts in

determining the location of the desks for the 30 staff members, and the equipment with which they work in order to achieve an improved library operation. The article is accompanied by a series of interesting photographs.

A new gadget: "Spine Marker Pen" used with "Vaporite Library White" ink is manufactured and marketed by Time-Saving Specialties, 2816 Dupont Avenue South, Minneapolis 8, Minnesota. The white ink is waterproof, dries quickly and will not smear.

Guide to the Legal Collections in Chicago is being prepared by Northwestern University Law Library for the Chicago Association of Law Libraries. The *Guide*, edited by Mr. Kurt Schwerin, will include all fields of law and all jurisdictions. It will be divided into the following sections: United States, Great Britain and Commonwealth, Comparative Law, Roman Law, Ancient and Medieval Law, Primitive Law, Foreign Law (Modern), International Law, and Canon Law.

The January 22, 1955 issue of *Publishers' Weekly* noted that, "American book production in 1954 reversed an eight years' upward trend by showing a slight decrease in the number of titles published, from 12,050 in 1953 to 11,901 in 1954." Eleven per cent more law books, on the other hand, were published during 1954 than during 1953.

The Ohio Association of Law Li-

braries *Newsletter*, volume I, number 2 for March, 1955 unraveled the complexities of the *multiple court reports of Ohio* with enviable clarity and included many helpful hints on the techniques of book repair.

The 1954 Annual Report of the Librarian of Congress states that an all-time high in *research and reference* work for the Members and Committees of Congress was reached during the 1954 fiscal year. About 69,000 requests for information were received and answered by the Library. The Legislative Reference Service compiled 3,007 reports, which were usually analytical and involved the highest level of service performed for Congress. This represented an increase of 373 over the fiscal year 1953. Nearly 33,000 items were drawn from all parts of the collection for use by Congressmen.

The *Law Library* served more than 55,000 readers in its reading rooms and answered nearly 14,000 reference requests by telephone. Approximately 255,000 books were issued in the Law Library in the Main Building and in the Capitol.

The U. S. Office of the Solicitor of Labor is publishing an "*Attorneys' Guide to Legal Periodicals*, selection of current articles on subjects of interest to attorneys in the Office of Solicitor of Labor." The first issue covered January to August, 1954. Supplements will be issued at irregular intervals.

A study of "Current Acquisition Trends in American Libraries" was published in the April, 1955 issue of *Library Trends* (Volume 3, number 4, pages 333-478). It is surprising that, until now, so little can be found in

the library literature on this subject when the very development of book collections involves the procurement of books. "Acquisition is more than a mechanical process, even when selection is left entirely in the hands of specialists or faculty. There must be time for the responsible person or persons in our acquisitions department to assimilate the book knowledge which comes to them daily." (page 336).

The fifteen contributors to this issue have approached the problem from almost every vantage point. In "Collecting in the National Interest" by Thomas R. Barcus and Verner W. Clapp and "Cooperation and Planning from the Regional Viewpoint" by Charles W. David and Rudolf Hirsch, the theoretical trends in the over all acquisitions program are discussed, the literature is surveyed, and trends are noted. Mr. Barcus and Mr. Clapp conclude that the present interest in the development of a national Union Catalog and a current Union List of Serials is encouraging, but caution that we must not lose sight of the enormity of the task involved, as illustrated by the increase in the world's annual production of monographic works from 161,489 titles in 1927 to an estimated 329,276 in 1954 (page 353). Mr. David and Mr. Hirsch include a number of tables showing regional holdings of sample titles which show that, as a whole, the holdings of selected research titles by American libraries is extremely good and that even on the basis of regional distribution the showing is quite remarkable. They make two specific recommendations: "(1) the coverage of

the national Union Catalog must be systematized and expanded in the card or published form, (2) after this has been achieved the national Union Catalog should become the center for planned cooperative acquisitions programs. As such it should act as coordinator and adviser to all research libraries in the United States." (page 374).

Fleming Bennett comments on the book buying pattern of American libraries in his "Current Bookmarket." He states: "If the respondent libraries comprise a representative sample of libraries in the U. S. (and no such claim is made for them), it can be asserted (1) that both public and academic libraries tend to place the majority of their current book orders with jobbers, (2) that academic libraries place more orders directly with publishers than do public libraries, and (3) that neither public nor academic libraries purchase many books from local bookstores." (page 381). Mr. Bennett's remarks are limited to the domestic current bookmarket; and of the antiquarian and rare book field, Donald G. Wing and Robert Vosper, in their "The Antiquarian Bookmarket and the Acquisition of Rare Books" have this to say: "There are many ways of locating and acquiring antiquarian and rare books as there are imaginations to grapple with their multifarious problems." (page 392). They emphasize that the absence of bibliographical tools for certain periods makes the publications of those years less expensive than the publications of an era but a few years separated in time. Though there is no substitute for experience in this field,

we can take a good deal of comfort in the authors' statement that "[t]he honesty and integrity of book sellers all over the world is profoundly impressing." (page 389).

Problems arising in the acquisition of serials, government publications, scientific and technological materials, the selection and acquisition of books for children, and problems peculiar to the public library acquisition program are treated separately. Robert W. Orr in "A Few Aspects of Acquiring Serials" points out "[t]hat the time has come when libraries must face up to the mounting problems stemming from their dependence on serials. The extreme urgency in the situation is due to the rapidly approaching end of relatively unlimited funds for publications and places in which to shelve them. Subscription lists need to be pared to more realistic totals. Cooperative measures must be utilized in providing access to marginal materials." (page 400). "The day will come, if indeed it is not already here, when libraries will be rated less by the completeness of their holdings of serials than by means of a yardstick which takes into account a definitive evaluation of serial holdings both in titles and time spans" (page 399). Jerome Wilcox in "Acquisition of Government Publications" notes that three trends affecting document procurement are discernible: (1) the development of a system of regional depository libraries, (2) that collecting of government publications by university, research and college libraries is tending to be done only in terms of immediate needs and current research programs, (3) that the largest number

of libraries, particularly public libraries, are tending toward a selective collection for reference and local interest only.

The use of exchange techniques in acquiring books is presented by Helen Welch in "Publications Exchange." The author comments that "[t]here have been a number of significant developments and trends in exchanges since the beginning of World War II. They are as follows: the increased concern of governments for extension and improvement of international exchanges; UNESCO leadership in the same field; the establishment of national book centers, such as the United States Book Exchange; the use of procurement officers; and finally, the small beginnings of multilateral exchanges." (page 423). The American Association of Law Libraries is listed as one of the library organizations operating exchanges.

The growing importance of "Micro-production and the Acquisition Program" is treated by Vernon D. Tate. He summarizes the available micro-techniques, and emphasizes the need for further study in this area. He feels that librarians must be prepared to employ these techniques boldly whenever they are indicated as a solution. The novelty has worn off and micro-techniques are here to stay.

A report of the "Management and Operation" in thirty one American university libraries by Felix Reichmann is the final article in this series. Mr. Reichmann summarizes some of the organizational patterns and responsibilities of the acquisition departments of the libraries surveyed. His conclusion provides a suitable

conclusion to this series of articles: "Acquisition work has many facets. It needs knowledge of books and familiarity with the book trade, it demands broad vision and respect for minute detail, it requires understanding of the scholar's problems and of the needs of the accountant, but most of all it calls for an outgoing personality who loves both books and people, loves them in their glory and in their foibles. No one will meet all the qualifications of an ideal acquisitions librarian, but everyone takes pride that he works for the library's most important objective, the development of its book collection." (p. 469).

Cormac Industries, Inc., 80 Fifth Avenue, New York has offered a new photocopying machine that copies directly from books and can make copies of tightly-bound, narrow-margined books. The *Cormac Book-printer* plugs in any electric socket, weighs about 20 pounds and is 20 x 13 x 9 inches in size. Individual photocopies, 14½ x 11 inches are produced. Each black and white copy costs about nine cents and can be reproduced in about 30 seconds.

The "Catalog for a Law Library of 15,000 Volumes" compiled by Miles O. Price and published by the Columbia University School of Library Service in 1942 is getting out of print. Mr. Price and the School of Library Service at Columbia University would be willing to consider the publication of a new edition or a reprint if there is sufficient demand for it. Any librarian who would be inclined to acquire a copy of such a new edition or reprint is requested to inform Mr. Price as soon as possible.

The remarkable growth of the *foreign collection* is described in the 1953-54 *Annual Report* of the Librarian of the Elbert H. Gary Library at Northwestern University. The collection had its beginning in the early and sustained interest of Dean John H. Wigmore and it has been developed as extensively as financially possible by the Law School since his day. Since 1947, when the reorganization of the library was commenced, 16,000 volumes have been added to the foreign law collection. The collection included approximately 45,000 volumes on August 31, 1954.

The addition of 3,713 volumes to the collection as a whole during the past year brings the total collection to 162,422 volumes. The increased demands made upon the library for service accentuate the need for additional space and Mr. Roalfe comments that "This is not only a matter of total capacity but also one of *inflexibility* in the present physical arrangement of the space that is available."

Ralph R. Shaw, professor of the Rutgers Graduate School of Library Service has invented a rapid *selector* machine that rushes through microfilmed material to pick out the data wanted. The machine, which costs \$75,000, may represent one of the first steps in Shaw's dream of a push-button electronics era in the library.

The Wisconsin State Law Library has announced that it has a *Verifax copier* and is prepared to furnish return air-mail service in reply to requests for copies of cases, records, law review articles and other materials in the library. Requests should be sent to Gilson G. Glasier, State Law Librar-

ian, State Capitol, Madison, Wisconsin. Rates are \$.25 for first page, \$.15 for each additional page and \$.05 for extra copies.

Net fees collected by the *Copyright Office* during the fiscal year 1954 hit an all-time peak of \$871,400. The 222,665 claims to copyright that were registered represents the third highest number in the history of the Copyright Office. Only 1947 and 1948, when the end of paper shortages caused registrations to soar, exceeded this record.

In addition to the revenue received, the deposit copies of domestically published works for which copyright protection is claimed serve as a major source of current materials for the Library of Congress collections, and the value of the works selected for transfer to those collections rose to a half million dollars. 213,500 volumes were placed on the Library's shelves—an increase of 7% over the previous fiscal year.

The Milwaukee Bar Association's Committee on Public Offices and Law Libraries recently published a *Consolidated Legal Index* which lists all legal treatises, periodicals, reporters and services found in the major law libraries in the city of Milwaukee. The Spring, 1955 issue of the *Milwaukee Bar Association Gavel* records that over 150 copies have been distributed and that a second printing is being considered. As an adjunct to this project, the Committee is receiving suggestions as to worthwhile treatises and services which are not available in the Milwaukee area. These suggestions will be turned over to the County Librarian, Miss Mary Ballan-

tine for assistance in purchasing in the future.

Any library interested in bound *Congressional Record* volumes 65-96, in fair condition, may have them by paying for shipping charges. Write to Mr. Charles A. McNabb, Executive Librarian, The Chicago Bar Association, 29 South La Salle Street, Chicago 3, Ill. There are about 500 volumes available.

The 1954-55 annual reports of the American Association of Law Libraries have been mimeographed and distributed to members of the Association by Commerce Clearing House. These reports will not be printed in the *Law Library Journal* but they may be bound with it by those wishing to do so since the mimeographed pages have been numbered R-1 to R-65.

As previously mentioned in the *Law Library Journal*, the Los Angeles County Law Library has monthly *exhibits* which are displayed in a specially constructed exhibit case. The January exhibit dealt with the History of Law Book Printing. The February exhibit was loaned by Shepard's Citations. The March exhibit had "Treaties in American History and Law" as its subject. A list of references useful in the search for treaties was

distributed to the exhibit viewers. The April exhibit was based on books relating to the Trial of Jesus. This exhibit was the Library's most popular exhibit and has caused much comment. Books by writers of all faiths were shown. The May exhibit was entitled "Commercial, Industrial and International Arbitration". In June, the law relating to the American Indians was shown.

Notes indicating the legend accompanying each exhibit piece and the exhibited items are available from the Library. (Please specify the particular exhibit for which you desire notes.)

In the recently published third edition of *Who's Who in Library Service* approximately 12,200 librarians are listed. In an announcement following the publication of this volume the Council on *Who's Who in Library Service* stated its disappointment that not more returns to its questionnaires had been received. The Council also notes that some librarians had not received questionnaires and that some completed questionnaires which had been mailed had not been received by the editorial office. While *Who's Who in Library Service* contains useful information, the omissions are regrettable and set limitations to its usefulness as a reference tool.

MEMBERSHIP NEWS

Compiled by CHARLOTTE C. DUNNEBACKE, Law Librarian
Michigan State Library

GILSON G. GLASIER, Librarian of the Wisconsin State Library, charter member and past president of the Association was honored by the Wisconsin Legislature when on April 20, 1955 they adopted Senate Joint Resolution No. 61 commending Mr. Glasier for 50 years of faithful public service. In commenting upon the announcement of Mr. Glasier's retirement at the close of the current year the resolution stated that "his leaving will be repined in all corners of the state." The five-page resolution paid tribute to the long and faithful public service of Mr. Glasier and to his outstanding career as state librarian. He was commended for his many contributions in the field of legal writing and for his editorial work in connection with the *Index to Legal Periodicals* during the early years of its publication and with many Wisconsin legal publications.

Another distinguished member who will retire during the current year is **LUCILE ELLIOTT**, immediate past president of the Association. Miss Elliott will relinquish her duties as head of the Law Library of the University of North Carolina this summer after thirty-two years of outstanding service. Miss Elliott's contributions to the law library profession are well known to us all. Her career has been one of unselfish devotion and service not only in the southeast but nationally as

well. She will be succeeded by **MARY OLIVER**, who has served as assistant law librarian under Miss Elliott.

The front page of the March 17th issue of the *Virginia Law Weekly*, the publication of the University of Virginia Department of Law, carried a picture of our attractive Association Secretary, **FRANCES FARMER**, and a glowing tribute under the caption "Bibliothecary Frances Farmer—Head Librarian's Profile." The article described the tremendous growth of the Law School Library since 1942 under the able guidance of Miss Farmer as "little less than phenomenal." Her work was outlined and praised, not only as administrator and librarian, but also as teacher and author.

HELEN C. LITTLE, law librarian for the United States Circuit Court of Appeals in Cincinnati, Ohio retired in October of 1954 after 15 years of distinguished service. Miss Little, an attorney, had practiced law with the late Judge Joseph O'Hara before becoming law librarian. Mr. **DEWEY TRACY**, assistant librarian since 1940, has been appointed law librarian to succeed Miss Little.

GERALDINE DUNHAM, assistant law librarian of the Iowa State Law Library, was appointed in January of this year as acting state law librarian.

The position has been vacant since the death of W. R. C. Kendrick on March 17, 1954. Miss Dunham, widely known in the legal profession throughout the state of Iowa, has been with the law library since 1939.

MYRON JACOBSTEIN assumed his new duties as Assistant Law Librarian at the Columbia University Law Library on June 1st. He was formerly assistant law librarian at the University of Illinois College of Law Library.

EUGENE M. WYPYSKI, formerly with New York County Lawyers' Association, is now Librarian, Law Department of the City of New York.

The LOUISIANA STATE UNIVERSITY LAW LIBRARY announces the following changes in its library staff. Mrs. DORIS WHEELER has resigned as reference librarian and is succeeded by Mrs. DELL SCHOLZ. Mrs. JOYCE BAKER is taking over the duties formerly performed by Mrs. Scholz.

Katherine Kyger has joined the staff at the UNIVERSITY OF OKLAHOMA LAW LIBRARY as serials assistant.

Notes from the DETROIT BAR ASSOCIATION LIBRARY. Theodore Samore, formerly with the cataloging department of the University of Michigan Law Library, has joined the staff of the Library as assistant librarian and cataloger. Hazel Dickinson has replaced Mrs. Lawrence Brown Zimmerman as staff assistant.

The May 1955 issue of the *American Bar Association Journal* carries an account of the dedication of the Wil-

liam Nelson Cromwell Library at the American Bar Center together with an interesting profile of JOHN C. LEARY, the librarian.

ARIE POLDERAART, librarian of the University of New Mexico School of Law Library, has been appointed Vice-Chairman of the State Library Commission of New Mexico.

At the annual meeting of the U. S. Book Exchange, Inc., on March 4, SIDNEY B. HILL, librarian of the Association of the Bar of the City of New York, and ROGER H. McDONOUGH, New Jersey State Librarian, were elected as members of the Board of Directors.

Margaret Lillie Mitchell of the University of Illinois Library staff and WILLIAM B. JEFFREY, Jr., assistant librarian of Yale University Law Library, were married on April 11th at New Haven, Conn. Following the ceremony the couple left on a European honeymoon.

Mrs. FRANCES K. HOLBROOK of the University of California Law Library, Los Angeles, has taken over the "Checklist of Current State and Federal Publications" formerly compiled for the *Law Library Journal* by WILLIAM D. MURPHY, and LOIS PETERSON of the Social Law Library, Boston, Mass., is preparing "Current Comments" formerly compiled by BETTY VIRGINIA LEBUS.

AMONG OUR AUTHORS

A Study of Law Library Classification and its Problems written by IRIS

J. WILDMAN, cataloger of the Army Law Library, Washington, D. C., for her degree of Master in Library Science at Western Reserve University in 1954, has been published by the University of Rochester Press for the Association of College and Reference Libraries in its Micro-Card Series, No. 30.

PHILIP A. PUTNAM, assistant librarian, Harvard University Law Library, is the author of an article in the April 1955 *Harvard Law School Bulletin* entitled *Visual Aids and Tools for Legal Research*. Mr. Putnam describes the attempt being made at the Harvard Law School Library to solve some of the problems of accessibility of the tremendous volume of legal materials by the use of visual aids.

The *Georgetown University Alumni Magazine* for May 1955 carries an article on the GEORGETOWN UNIVERSITY LAW LIBRARY by John Harrison Boyles, the librarian, entitled *Law Library Reaches 50,000*.

The May 1955 issue of the *Record of the Association of the Bar of the City of New York*, Vol. 10, No. 5, page 238, contains another timely bibliography, *Recent Selected Materials on the Federal Loyalty-Security Program*.

The Bar Bulletin of the New York County Lawyers Association for March 1955 contains a review by LAWRENCE H. SCHMEHL, Association librarian, of *Successful Handling of Casualty Claims* by Patrick Magarick.

In *Illinois Libraries*, Vol. 37, No. 3, Reverend REDMOND A. BURKE, Director of Libraries at DePaul University, writes of *The DePaul University Libraries*. Describing the Law Library Father Burke notes especially the "Farthing" collection donated in 1952 by former Illinois Supreme Court Justice Paul Farthing and Chester H. Farthing which contains all of the session laws and revised statutes of the territories and state of Illinois dating from 1788 to 1951, including the Incorporation Laws of the State of Illinois 1837.

CHAPTER NEWS

THE LAW LIBRARIAN'S SOCIETY OF WASHINGTON, D. C. elected the following officers for the year 1955-56:

President: BERTHA ROTHE
Vice-President: WINIFRED ING
Secretary: MRS. VELMA REAVES
Treasurer: MARVIN HOGAN
Member of Board: WALTER ZEYDEL

Henry M. Shine, Jr. assistant to Commissioner Robert G. Storey, a member of the Hoover Commission on the Organization of the Government, addressed the Society on May 18th on the Report of Legal Services and Procedure which the Commission recently made to Congress. An Ad Hoc Committee from the Society was appointed to formulate a draft of guides for classification standards for positions in law areas in connection with the Civil Service Commission's "Tentative Drafts of Position-Classification Standards for the Library Series." Members of the committee include: MIRIAM C. VANCE, Chairman, LILLIAN McLARIN, LOIS MOORE,

FRANCIS X. DWYER, HARRY BITNER and WILLIAM H. CROUCH. Miss McLaurin also served on a special Sub-Committee on Subject Specialization composed of representatives from the Special Libraries Association, the American Association of Law Libraries and the District of Columbia Library Association to discuss this tentative draft.

Mrs. ALICE W. MOORE, Assistant Librarian, Covington and Burling, has been added to the rolls of new members.

THE SOUTHEASTERN CHAPTER held its spring meeting April 28-30 at the University of North Carolina Law School, Chapel Hill. *Ephemeral Materials in the Law Libraries* was the subject of a panel, the participating members being LUCILE ELLIOTT, University of North Carolina Law Library, Chairman, MARIANNA LONG, Duke University Law Library, and JANE OLIVER, Georgia State Library. RUTH CORRY, University of Georgia Law Library, commented upon a survey made by a committee of the Southeastern Chapter for the purpose of obtaining a basis for co-operative projects among law libraries of the south.

The following officers for 1955-56 were elected:

President: JANE OLIVER, Georgia State Library

Vice-President: CORINNE BASS, Univ. of Mississippi Law Library

Sec.-Treas.: SARAH LEVERETTE, Univ. of South Carolina Law Library.

The Connecticut Supreme Court room in Hartford was the setting on May 21 for the annual meeting of the LAW LIBRARIES OF NEW ENGLAND. At this meeting the following officers were elected for the year 1955-56:

President: Mrs. GRACE L. M. GAINLEY, Hampden County Law Library, Springfield, Mass.

Vice-President: EDITH L. HARY, Maine State Library

Secretary-Treasurer: CHRISTY L. HETHERINGTON, Fairfield County Law Library, Bridgeport, Conn.

Director: PHILIP HAZELTON, New Hampshire State Library

Following the meeting, tours were made of the Connecticut State Library under the guidance of JAMES BREWSTER, State Librarian and VIRGINIA KNOX, Law Librarian, and of the Hartford Bar Library with Mrs. MICHALINA KEELER, the librarian, as hostess. At the luncheon at the new Hotel Statler the members were the guests of the Boston Law Book Company. Mr. Benedict M. Holden, Jr., of the Hartford Bar addressed the group on *A Colonial Background to our Modern Legal Machinery*.

THE CHICAGO ASSOCIATION OF LAW LIBRARIES gathered for its spring meeting at the William Nelson Cromwell Library, American Bar Center, with JOHN C. LEARY, Librarian and SONIA SANDEEN, Assistant Librarian, as hosts. The following officers were elected for the year 1955-56:

President: DOROTHY SCARBOROUGH, Northwestern University Law Library

Vice-President: NORMAN BURSLER, University of Chicago Law Library.

Secretary-Treasurer: WILLIAM D. MURPHY, Kirkland, Fleming, Green, Martin and Ellis.

Executive Board: FREDERIC D. DONNELLY, Loyola University Law Library and Mrs. FLORENCE R. McMaster, Indiana University Law Library, Indianapolis.

After the meeting the members enjoyed a tour of the Center.

The SOUTHERN CALIFORNIA ASSOCIATION OF LAW LIBRARIES met on March 25 in Los Angeles. After dinner at the Alexandria Hotel, the group gathered in the offices of O'Melveny and Myers for a short business meeting and program. WILLIAM B. STERN reported on the bibliographical and interlibrary loan services of the Los Angeles County Law Library. ROBERT W. LEWIS, host librarian, described the operations and special problems of a large firm library. A lively group discussion followed, dealing with the similarities and differences of problems faced by law libraries of every kind. On June 3rd the Chapter met for dinner at the Taix Restaurant in Los Angeles. At a business meeting at the Los Angeles County Law Library following the dinner officers for the coming year were elected:

President: RILEY PAUL BURTON, University of Southern California.

Vice-President: ELSE RICHARDS, Kern County Law Library

Secretary-Treasurer: JOHN DUDLEY STEPHENSON, Los Angeles County Law Library

NEW MEMBERS

Institutional membership has been entered for the MILWAUKEE COUNTY LAW LIBRARY, Court House, Milwaukee, Wisconsin, with MARY BALLANTINE designated as institutional member.

The following additions and changes have been made in institutional membership designations:

LAWRENCE R. GREENE, University of California Law Library, Berkeley.

FEDOR CICAK, Indiana University Law Library, Bloomington, Ind.

Mrs. MARIAN O'FARRELL has replaced Marian L. Becker, LEO L. BOITEUX has replaced John D. Stephenson and JERRY DYE has replaced William L. Blackwell, all at the University of California Law Library in Los Angeles.

Mrs. JOYCE BAKER has replaced Mrs. Doris A. Wheeler at the Louisiana State University Law Library, Baton Rouge.

EDWARD J. MURPHY has replaced Arthur H. Bernstein at the Law Library of the New York Central Railroad Co., New York City.

The following have joined the Association recently as individual members:

S. J. HUGH ALLAN, Trustee of Marin County Law Library, San Rafael, California.

JOY S. BAKER, Law Library, Southern Methodist University, Dallas, Texas.

GRACE HELEN BROWN, Breed, Abbott and Morgan, 15 Broad St., New York City.

CHOUNG CHAN, Library of Congress, Law Library, Washington, D. C.

CHRISTINE COX, Contra Costa County Library, Hall of Records Building, Martinez, California.

ELEANOR DALL, Fitzgerald, Abbott and Beardsley, Oakland, California.

ISIDORE J. DENIS, Faculty of Law, University of Montreal, Montreal, Canada.

LUCY M. KALLAHER, General Electric Law Library, Cincinnati, Ohio.

MARY R. KEENAN, Parker, Duryee, Benjamin, Zunino & Malone, New York City.

TOM M. KELLEY, Santa Cruz County Law Library, Santa Cruz, California.

JAMES T. LYNCH, Office of the Attorney General of California, San Francisco.

RICHARD H. RICE, Auxiliary Law Library of Dade County, Miami Beach, Florida.

CHARLOTTE B. STILLWELL, Post Office Department Law Library, Washington, D. C.

DEWEY L. TRACY, U. S. Court of Appeals Library, Cincinnati, Ohio.

BOOK REVIEWS

Prejudice, War, and the Constitution, by Jacobus ten Broek, Edward N. Barnhart, and Floyd W. Matson. Berkeley and Los Angeles: University of California Press, 1954. Pp. xii, 408. \$5.00.

This volume is the third in a series of studies undertaken by the University of California on the evacuation and resettlement of Japanese Americans during and after World War II. The first volume, entitled *The Spoilage*, by Dorothy S. Thomas (Director of the Project) and Richard S. Nishimoto, which was published in 1946, dealt primarily with the experiences of Japanese Americans in the relocation centers and the reactions of the evacuees to administrative policies and the war in general. The second volume, *The Salvage*, by Dorothy S. Thomas, published in 1952, analyzed the fortunes of those who left the relocation centers to resettle in American communities before the Army released the majority of the evacuees in December, 1944.

The book here reviewed is concerned with the evacuation in terms of its historical origins, its effectuation through legal and administrative measures, the assessment of responsibility, and the juridical appraisal of the entire program. The study is based on a vast amount of materials now available in the University of California Library, as well as on interviews with former officials of the War and Justice Departments and the War Relocation Authority, microfilm records of un-

classified files of the Western Defense Command and other agencies concerned with the evacuation, and the records of special tribunals and boards established by the agencies involved. Although a final judgment on the manner of use and analysis of these materials by the authors of the study could not be passed without re-checking the original documents, the book appears to bear all the earmarks of authenticity and of a judicious appraisal of the record.

Part I, entitled "Genesis," advances the thesis that none of the wartime acts of discrimination and expulsion are explainable without reference to their historical context: the heritage of prejudice and suspicion surrounding the Oriental, and especially the Japanese, which had grown up through nearly a century along the Pacific Coast. The anti-oriental background of Pacific Coast politics, the specific manifestations of racial prejudice among the various groups of the population in that area, and the activation of accumulated sentiments and attitudes after Pearl Harbor are fully described in this chapter.

Part II "Exodus" encompasses the story of the evacuation itself. The authors relate the various stages through which the evacuation passed, the persons concerned in making the critical decisions, and the timing of these decisions. The second part of the chapter takes up the problems of assessing responsibility for the program and its execution. The most

commonly accepted explanation for the evacuation—namely, that it was undertaken by the Army as a direct result of the activities of certain pressure groups or politicians—is rejected as an oversimplification. It is suggested that General De Witt (although he was avowedly possessed of strong racial prejudices) contemplated the program of evacuation out of a bona fide conviction that the military situation required it, a conviction which in the view of the authors was not borne out by the facts. The concluding chapter of the book points out that the responsibility was not alone that of the Army, but was fully shared by President Roosevelt, Secretary Stimson, Assistant Secretary McCloy, and the Congress of the United States.

"Leviticus" is the title of the third part. It deals with the role of the courts in the episode and will be of particular interest to members of the legal profession. The decisions of the United States Supreme Court concerning the constitutionality of the anti-Nisei measures are thoroughly analyzed by Professor ten Broek. The discussion of the principal constitutional issues involved—such as the war powers of the national government, the requirements of due process and the equal protection of the laws, and the character of U. S. citizenship and the rights flowing from it—is scholarly and illuminating. The final judgment on the position and reasoning of the Court in the evacuation cases, and particularly the *Korematsu* case, is a highly damning one. The upshot of the decisions was, it is held, that a quiescent and irresolute court allowed

the military to determine the scope of its own powers, free from judicial review.

The work should prove to be of considerable value not only to persons interested in the particular episode of our political history which it described, but to every student of law and social science concerned with the constitutional protection of basic rights.

EDGAR BODENHEIMER
University of Utah College of Law

New Mexico and the Uniform State Laws, by Arie Poldervaart. Albuquerque: Division of Research, Department of Government, University of New Mexico, 1954. Pp. 91. \$1.00.

Mr. Poldervaart, Associate Professor and Law Librarian at the College of Law, University of New Mexico, at the request of the New Mexico Committee for Promotion of Uniformity of Legislation, has analyzed the various uniform legislation adopted in New Mexico, as well as uniform laws not yet enacted in that jurisdiction on the basis of whether existing conditions warrant the enactment of such measures in complete or modified form, either in conjunction with or amendment to already existing laws.

While this treatise is of immediate value in New Mexico, it is also of general value in comparative law analysis—especially so in view of the fact it is concerned with many uniform measures which have not yet enjoyed widespread adoption. Slanted as this work is, toward recommendation of legislative change, treatment

of the various uniform laws is of necessity not extensive; however, the underlying purpose and need for uniform legislation in each of the fields treated is stated with clarity and valuable reference is given to law review articles and other sources where more detailed treatment may be found. Careful attention is given to deviations from the uniform acts which appear in the New Mexico acts, as well as existing laws and decisions which point to a need or absence of need for the adoption of further uniform acts. The recommendations made are at once far-sighted and realistic.

ANNETTE R. SHERMACK

Santa Fe, New Mexico

The A. I. A. Standard Contract Forms and the Law, by William Stanley Parker and Faneuil Adams. Boston: Little, Brown & Co., 1954. Pp. xi, 147. \$7.50.

Practicing attorneys representing contractors, subcontractors and others involved in contractual relations relating to construction work, particularly insurance companies carrying liability coverage, have long awaited the publication of a book on the legal interpretation of standard provisions in contracts and documents related to building. After studying its contents, reappraisal of the comments on the jacket to this book not only point out its merits but, by omission, spotlight the reasons for disappointment of such practicing attorneys. In one contractor's opinion the book "will be of great value . . . It points out very vividly the *moral, ethical* and legal responsibilities involved . . ." To an architect it is "a valuable ready refer-

ence book." To a lawyer, first: "this book should be required reading for architects . . .," and also: "it furnishes ready answers to *many* problems that arise in the execution of any architectural commission . . ."

The preface reveals that the book is intended primarily for architects and contractors as a companion volume to *The Handbook of Architectural Practice*, taking up the standard provisions of A. I. A. forms, article by article, and indicating the purpose and general interpretation thereof, the responsibilities involved, legal hazards inherent in the provisions and the result of available court actions bearing on these provisions. Although the sixty-three pages of text include only some eighty citations to legal references, some pride is taken in the apology that few cases directly involve A. I. A. standard form contracts. The appendix sets out A. I. A. standard forms for Owner-Architect Agreements providing for fees on three different bases, Contractor-Owner Agreements of three types, General Conditions, Subcontracts and Bonds, and also contains published information on fee-plus-cost contracts, arbitration procedure, insurance requirements and the history of standard documents.

Mr. Parker was secretary of the American Institute of Architects for many years, and has been very instrumental in the standardization of contract forms. Mr. Adams is a lecturer, author and specialist in real estate law. Through their joint efforts and experience this book contains much background information on the development of the standard A. I. A.

contract forms to their present wording and condition of general acceptance. It is to this development and the other stated subject on which publications are reprinted that the authors devote their greatest interest. The avoidance of litigation, especially by the use of arbitration procedure, and the benefits to be derived from agreements for architectural services or construction on a fee-plus-cost basis are emphasized.

Perhaps because of their affinity to the A. I. A., this book and the subject forms seem to be primarily concerned with the responsibilities, authorities and potential problems of the architect, particularly in connection with the determination and collection of his compensation. The text typically gives reasons for standard clauses and examples of how they are needed for the architect's protection, explaining fully their fairness from his viewpoint. Even in the standard contract between the owner and the contractor, the architect is referred to in almost every section.

This book leaves untouched some questions as to interpretations of A. I. A. standard form provisions and relates the text of only a few cases on the nature of the rights and duties of the parties to such contracts. For example, it would be of interest to know, with regard to such contracts, the law as to ultimate responsibility for damage to the person or property of a third party as a result of construction in complete compliance with drawings and specifications calling for work which is inherently dangerous. Some consideration of limiting the right of action on such written contracts to

signatories thereto and those named as beneficiaries thereof would be appreciated by many.

The explanations given in this book as to matters to be considered in filling in the blanks of the standard contracts will be very beneficial to architects, contractors and owners whose agreements are sufficiently routine to avoid the need for attorneys' services in reducing them to writing. The forms and comments thereon will be useful to lawyers undertaking to draft contracts which require special provisions. The extent of explanation required as to the purpose and meaning of some of these standard provisions, as they are customarily applied in the building business, perhaps points up the limitations of any standard form which must be general in order to cover most of the usual cases without becoming too lengthy. Of course, as in all such relations, a thousand page contract and the services of the ablest counsel are no substitute for integrity and competency of the parties thereto. However, it is pointed out that uniformity makes for familiarity and enables gradual definition by courts. Perhaps an analysis of the law on these contracts by a more objective critic would have better filled the general need.

ROBERT E. MORSE, JR.

Houston, Texas

Taxation of Oil and Gas Income, by

Clark W. Breeding and A. Gordon Burton. New York: Prentice-Hall, Inc. 1954. Pp. xii, 340. \$12.00.

The Taxation of Oil and Gas Income is a well written short treatise effectively summarizing the funda-

mental principles of oil and gas taxation. As a short treatise or hand book, it does not, of course, go to the bottom of every problem and does not deal with all of the corollary problems which arise out of the complex operations of the oil and gas industry and the complex dealings in oil and gas properties. This statement, however, is not a criticism in the complaining sense. The professional periodicals are filled with articles finely dissecting the law and dealing with the minutiae of tax problems arising in the industry. These articles serve a useful purpose but do not serve to satisfy every need for information. Until the appearance of this book there has been conspicuously lacking a well written concise treatment of the entire subject.

The conciseness of the work is not, however, achieved through use of the inexact and often misleading over-generalizations too frequently found in short or summary treatises. With surprisingly few exceptions the general statements and broad summarizations are carefully and precisely drawn. While this work is brief and concise, its brevity and conciseness lie in the elimination of details and petty ramifications and not in the sacrifice of accuracy.

The style is straightforward, clear, readable, and the meaning fairly easy to grasp. The authors are not afraid to make an unequivocal statement without hedging or qualification. They have not, as others, dealt with a difficult problem by quoting an ambiguous statute or a cryptic paragraph from a court opinion as the answer to a question, thereby leaving the reader approximately where he began,

that is, with the question itself and no definite opinion of anyone as to the solution. There is, of course, some danger in writing as the authors have done; the danger of provoking disagreement on the part of tax payers or on the part of representatives of the Internal Revenue Service, as the case may be, and even the greater danger of being proven wrong. The authors, to their credit, have faced up to this danger and have not sought to avoid it by equivocation. In the opinion of this reviewer, the authors will, over the years, be found to have been correct many more times than not.

It has been the experience of this reviewer, both as a law teacher and as a practitioner, that many people, when considering the income taxation of oil and gas transactions tend to lose sight of the basic framework within which these problems arise. After all, the income tax questions arising out of oil and gas transactions are not unlike those of all income tax problems; it is necessary to determine what is income, when it is income, to whom it is income, and what deductions, when, and by whom, may be taken in arriving at taxable income. Of course, there are many special rules for applying these principles to income emanating from this one type of property. The authors appear to have kept these fundamentals in mind and have not attempted to lead the reader away from them.

The organization is functional rather than conceptual, which, causes repetition of certain fundamental concepts arising in different contexts, but helps greater understanding and makes the discussion of each problem complete in itself.

The authors have discussed the various types of conveyancing transactions in a series of chapters, setting forth in the same chapter the consequences to both or all parties to the transaction. This feature enables the reader to follow through the whole transaction at one reading and grasp the picture as it affects all parties. Clarity is achieved in these chapters by separate discussions of the same form of transaction as it affects producing and non-producing properties. Attempts by others to consider producing and non-producing properties simultaneously has brought forth chaos.

Next follow a series of chapters on the problems of the operator in exploration, drilling, development and production, followed by chapters on special problems.

Finally, the work concludes with a consideration of Canadian income taxes in the same area. This chapter, to the real student, provides a basis for an interesting comparative law study.

Of particular interest and significance are the accounting illustrations interspersed through the treatise, particularly those in Chapter XI. To the accountant they are invaluable as a guide to the means of reflecting transactions on the books of account and they serve concretely to illustrate the principles involved in the discussion. They are also exceedingly valuable to the attorney who, although not directly concerned with the establishment of accounting systems and the preparation of books of account, must, nevertheless, be able to communicate with the accountants who are so concerned and must, in many instances,

be able to understand and interpret the accounting records. These illustrations are well calculated to contribute to the solution of the problem which arises out of the failure of lawyers to visualize the specific application of the legal principles with which they are familiar.

This book should be of great value to those accountants, attorneys and others who have not made an extensive study of oil and gas income taxation as a general comprehensive survey of the field and as an introduction and starting point to more exhaustive study. It is sufficiently complete and comprehensive to give a working familiarity with the principles of oil and gas income taxation without looking further. It will also be useful for general orientation and as a beginning point for the reader who wishes to make a more extended study.

In addition, the book will also be of great value to the present specialist in the subject. It is quite easy for a specialist to become lost in details and lose sight of the larger picture. This treatise will provide a reminder of the larger picture and provide a convenient frame of reference into which the details may be put in proper perspective.

The book will also be invaluable to management and to others in the industry who are not directly or immediately concerned with income tax problems, but who nevertheless affect and are affected by income tax problems, in that it will give them a familiarity with the need and importance of the consideration of and planning for tax consequences. It should provide a basis of common

understanding and a common ground for discussion of tax problems between management and others and those specially charged with tax responsibility.

In short, the reviewer believes the book will have a broad appeal and a universal usefulness to all persons con-

nected with the oil and gas industry and recommends it as a desk book to be kept always at hand for ready reference on the difficult, complex, and important problems so ably discussed.

PARKER C. FIELDER

Midland, Texas

BOOK NOTES

The Right to Counsel in American Courts, by William M. Beaney. Ann Arbor: University of Michigan Press, 1955. Pp. xi, 268, ii. \$4.50.

This book fills a distinct need in that, nowhere else, so far as I know, is there so complete a survey of the right to counsel in the various American jurisdictions, written in the light of the impact, on this right, of the Sixth Amendment as a restriction upon the federal government, and of the Fourteenth Amendment as a restriction upon the states. At times the style is tedious, largely because of what seems excessive repetition, particularly in summaries, but this is a minor fault to set beside the painstaking analysis of the existing law, and the sage suggestions for improvement, which the book makes available. It will prove invaluable to judges, to counsel, to legislators, and to students of this phase of our public law.

MAURICE H. MERRILL

University of Oklahoma
College of Law

Studies in Federalism, directed and edited by Robert R. Bowie and Carl J. Friedrich. Boston and Toronto: Little, Brown & Co., 1954. Pp. xlii, 887. \$15.00.

These studies are distinguished for the thoroughness of the research and the penetration of the thought. They will be valuable on both sides of the Atlantic, and indeed wherever men are concerned with the federal form of government.

The immediate purpose, Professor Friedrich explains in the Introduction, was "to provide detailed comparative material for the deliberations on the European constitution." (P. xxv.) The study was undertaken at the request of the *Comité pour la Constitu-*

tion Européenne of the *Mouvement Européen*, whose leader has been M. Paul-Henri Spaak. Support was provided by the Ford Foundation, upon request of the American Committee on United Europe. The Graduate School of Public Administration and the Law School of Harvard University sponsored the research. The work, under the direction of Professors Bowie and Friedrich, "was done under great pressure during July, August and September, 1952." (Pp. xxvii-xxviii). One recalls another work on federalism that was executed under the pressure of impending events—but neither the production by Messrs. Hamilton, Madison and Jay, nor that by the associates in the present undertaking, was perceptibly the worse for that.

For those who in 1952-53 were—and for those who in the years to come doubtless will be—charged with responsibility for designing a practicable structure wherein the European peoples may find a common life, these studies offer wisdom extracted from a great deal of experience. For those who, like ourselves in America, are concerned with the continued effectiveness of a going system, this sharply-focused comparative survey will help us to look more perceptively at our own institutions. A chapter is devoted to each of the major matters with which federation-builders must be concerned, such as the federal legislature; the executive; the judiciary; defense; foreign affairs; commerce, transportation and customs; public finance; labor and social security; personal rights; defense of the constitutional order—and so on, concluding with the problems of perpetuity and of amendment. The method in each chapter is to analyze the topic, to adduce relevant experience and apply it to the specific European problem, and to offer prescrip-

tions. Each chapter is followed by appendices setting out pertinent texts and detailed explanations as to the several federal governments considered—normally Australia, Canada, Germany, Switzerland, and the United States. There would be no novelty, and not much utility, in a mere comparison of constitutional texts. As Mr. Bowie observed at the outset, "the success of each of these systems depends in varying degrees on the existence of suitable political and other conditions." In seeking to adapt to a novel European context, "it will be essential to analyze carefully the political environment within which the institutions would have to function and any special difficulties they would be forced to surmount." (P. 22). Throughout, the authors have gotten to the true inwardness of the practices they describe, and then have considered realistically what would be appropriate to the new environment. Thanks in part, no doubt, to the presence of "natives" on the research staff, the discussion gives a feeling of authenticity seldom found in comparative studies.

There is one point, we would suppose, where the United States would make a unique contribution: the model of a supreme federal court. As Professor Freund observes in an exceedingly able chapter on the judiciary:

The Canadian and Australian Constitutions are technically legislative Acts of the British Parliament, and their interpretation has tended to follow the rules of statutory construction, whereas the best tradition of constitutional decision in the United States has been mindful of Chief Justice Marshall's admonition that we must never forget it is a Constitution we are expounding. . . . (P. 110.)

(It may be interjected that very great English judges, when sitting at the board of the Judicial Committee, have proved not nearly so great at the exposition of constitutional law for the Dominions.)

Every federal system runs into complicated problems of exclusive and concurrent powers—notably in the regulation of commerce. This is discussed with understanding in Professor Sutherland's chapter on Commerce, Transportation, and Customs. Economic crisis calls for adaptability in the use of public power. In the United States we have looked to the Supreme Court to find within the Constitution power adequate to the need. European constitutions tend to provide for a shifting of gears, into "emergency powers." Mr. Sutherland gives this wise advice:

The doctrine of "emergency powers" is a dangerous one. Military crises appear with increasing

frequency. If, in addition to these defense emergencies, recurrent economic crises also redistribute the allotment of constitutional competence as between the central government and the States and relax other constitutional limitations, the end of a preceding crisis tends to overlap the start of its oncoming successor, the extraordinary becomes normal, and constitutional limitations cease to limit. Crisis becomes chronic. (P. 332.)

The conclusion is that

the insertion of an express provision for emergency powers is an invitation to use them. Grants to the community of normal constitutional power should be sufficiently wide to enable it to cope with the normally unexpected. An unrealistically restricted constitution, with an escape clause for difficult times, is an invitation to trouble. (P. 332.)

It is out of the question in a book review to mention particularly the contribution of each of the associates. The quality is pretty even throughout. The "Draft Treaty Embodying the Statute of the European Community" is included as an appendix, and there is a useful select bibliography. All told, a first-class production.

CHARLES FAIRMAN

Harvard Law School

The American Legal System, by Lewis Mayers. New York: Harper and Brothers, 1955. Pp. ix, 589. \$6.50.

That highly respected mentor of law librarians, Miles Price, has expressed pity rather than censure for those of us who fail to establish more than a passing acquaintance with the worthy volumes to which we give shelf space. The "warming up" process with some books, as with people, is slow. To others, we are quickly drawn for, recognizing integrity and helpfulness, we establish a rewarding friendship. Such a new friend is Mayers, *The American Legal System*.

In his Preface, Professor Mayers states his objective to be "an integrated account of the entire fabric of American justice." Proceeding toward the attainment of this objective in a logical and orderly manner, and not unmindful of Holmes' admonition that historic continuity with the past is not a duty, it is only a necessity in understanding the present, he first discusses the bases of judicial power and the structure of the courts, both federal and state. He then gives an illuminating account of some of the most important aspects of civil and criminal procedure.

Following these lengthy chapters, which occupy more than one-half of the book, Professor Mayers essays a critical evaluation of the courts as checks on the executive and legislative departments of government.

Much more lightly touched upon are the subjects of court personnel, court administration, selection of judges, their compensation and tenure. Following this, the author provides much too brief a discussion of the legal profession.

Part II deals with the administrative tribunals and their supervision by the courts. The concluding parts III and IV cover military and arbitration tribunals and their control by the courts, and, although somewhat summarily presented, give an adequate and clear picture of their background, function and procedure.

The American Legal System will be of greater utility and interest to the advanced student of government or political science and the interested layman both here and on the other side than to the practicing lawyer. As a coursebook (the term is Professor Llewellyn's) for use in law schools, the book has but limited value. It can serve as a reference work in an introductory seminar designed to initiate the legal neophyte into the strange new world of the law. There is no doubt, however, that because of its lucid presentation of a subject of immense complexity, its serviceable bibliography, its footnotes and index, *The American Legal System* will be a welcome addition to the reference shelf of any law library.

In a recent review of Jackson, *The Machinery of Justice in England*, Chief Justice Arthur Vanderbilt expressed regret that no similar book dealing with the American legal system existed. It would appear that the void has now been filled, though somewhat less brilliantly.

FANNIE J. KLEIN

The Institute of Judicial Administration, Inc.
New York, N. Y.

American-Dutch Private International Law,
by R. D. Kollewijn. New York: Columbia University, Parker School of Foreign and Comparative Law, 1955. Pp. 63. Distributed by Oceana Publications Inc., New York, \$2.00. (Bilateral Studies in Private International Law, No. 3).

In 1951 the Parker School of Foreign and Comparative Law of Columbia University started the publication of a series of brief monographs of which the publication at hand is the third. The earlier publications were those by Professor Arthur Nussbaum on *American-Swiss Private International Law* (1951, 46 p.) and by Georges R. Delaume on *American-French Private International Law* (1953, 78 p.). Aside from Professor Reese's

review of the initial study in this series,¹ book reviewers have not drawn attention to this project in American legal periodicals although its unusual character merits explanation and comment.

The purpose of the series has been stated in a preliminary statement to Mr. Nussbaum's monograph and in Mr. Reese's review as an effort to supplement general treatises on conflict of laws by dealing exclusively with the legal relationships of two specified countries and to refer to the treatment which citizens of one receive under the law of another country. These two purposes are certainly related in fact, but have caused the authors to include subjects which are usually not classified under conflict of laws. While the volumes contain more than the titles indicate, the monographs are incomplete as to other matters and presuppose a considerable knowledge of the foreign legal systems. In fact, some important rules of foreign law are supplied only in notes or in rough outline. For example, the Netherland practice under which divorces may be obtained upon default of the defendant without proof of the divorce cause, is a matter of possible concern to American courts, but is stated in the monograph under review only in the somewhat contradictory notes 148 and 161, and the effect of Art. 276 of the Burgerlijk Wetboek (Civil Code) under which divorce decrees are declared not to dissolve marriages unless the divorce is entered in the Register of the Civil Status Office within a prescribed period is not stated in detail and there is no reference to the Netherland decisions which qualify this rule.

The selection of subjects to be treated in each of the *Bilateral Studies* is doubtless dictated by the size of the monographs. Although some subjects (such as arbitration) which have been selected for inclusion receive only scant attention in the general literature on conflict of laws, the omission of other subjects (such as contracts and wrongs) is unfortunate from a practical point of view.

The *Bilateral Studies* are profusely annotated, and Professor Kollewijn's volume has a list of selected abbreviations which are used by him. Cumulative citations are given by this author for American decisions, but not for Netherland decisions, and American readers will regret the absence of a table of cases and of a bibliography of Netherland books suited for more detailed research.

While Mr. Kollewijn's monograph does

1. 52 COLUM. L. REV. 682 (1952).

not exhaust its subject and is limited in scope, it is a valuable contribution to the knowledge of important phases of Netherland law and gives new emphasis to the interesting publication venture of the *Bilateral Studies* series.

WILLIAM B. STERN

Los Angeles County Law Library

Legal Medicine Pathology and Toxicology, by Thomas A. Gonzales, Morgan Vance, Milton Helpern, and Charles J. Umberger. 2d ed. New York: Appleton-Century-Crofts, 1954. Pp. xii, 1349. \$18.00.

This is the second edition of this book which was first published in 1937. It has many attributes which would justify its place in any library, either for law or medicine. The book has 1,349 pages and is divided into 47 chapters. The index alone comprises 35 pages, each of which has a double column. Following each chapter are specific references, some of which are quite extensive. Chapter 46 on Ethyl Alcohol has 157 references. The illustrations are numerous, informative and usually of good quality. Some are in color. The style of presentation of the subject is pleasing to the reviewer.

The authors are three medical examiners and a toxicologist for the City of New York. They report their experiences and many statistics from the Annual Reports of the Office of the Chief Medical Examiner from 1918 to 1951. The number of investigations made by this office far exceeds that of any similar institution in the world. About 81,000 deaths occur annually in the City of New York; of these, some 20,000 are investigated. Material from 2,000 or more human bodies is analyzed annually for poisons.

The authors have included the experience of other authorities as illustrated by Chapter 27—"Human Blood Groups" by Alexander S. Wiener, serologist in the office of the Chief Medical Examiner in the city of New York. Mr. Rowland H. Long, General Counsel of the Massachusetts Mutual Life Insurance Company advised the authors on certain phases of medical jurisprudence, such as the corpus delicti, the responsibility of physicians to the government, malpractice, insanity, confidential communications, dying declarations and insurance claims.

After reviewing this book I find myself agreeing with the remarks made by Harrison S. Martland in the introduction, "This book so completely and thoroughly covers the subjects of legal medicine and toxicology that

it should become the handbook and daily guide for the coroner, the coroner's physician, the county physician, the medical examiner, the toxicologist and the pathologist. Further, any laboratory assistant or technician who, in an official or semi-official capacity, may be called upon to aid in the investigation of the so-called coroner's case, will find the work invaluable. But the value of the book does not end here. The text should serve as a guide for teaching and for reference in the police schools and crime laboratories. It will be of aid to the police, homicide squads, detectives and photographers in the scientific detection of crime and in the apprehension and conviction of the criminal. Finally, the surgeon, the internist, especially the cardiologist, as well as the members of the legal profession, criminologists, and those who are interested in the occupational hazards and poisons of present-day industry should find a wealth of material and detailed instruction in this work."

From the title, lawyers may conclude that this book would not be of value to them. To this I would not agree. The index is so complete that a person unfamiliar with medicine can find specific discussions readily in the text which would enable them to understand the basic mechanisms involved in many disease processes. A knowledge of these mechanisms will enable counsel to establish scientific proof and to present to the court a better case for their client, either on behalf of the plaintiff or the defendant. An illustration will be cited to support this opinion. Death in a personal injury case was given on the death certificate as due to an *embolus to the brain secondary to a thrombus in the leg which developed secondary to trauma*. In the index under *Trauma* we find the complications of trauma and on page 174 a discussion of "non-infectious thrombosis and embolism." There is an excellent discussion of the formation of thrombi and pulmonary emboli that frequently occur and produce death in this type of case. This preliminary discussion of thrombi is followed by one on "paradoxical embolism" with an illustrative case. This is the specific problem presented in the above death certificate. Paradoxical emboli are rare and are produced by a combination of unusual factors that are discussed. I know of no better discussion of this problem than is given in this book. A medical expert witness would find this discussion advantageous in presenting his testimony and a knowledge of these facts by an attorney, for

either the plaintiff or defendant, would assure the establishment of scientific evidence in the specific case.

Toxicological problems are discussed in several of the chapters. Much of the data is highly technical; however, the authors also discuss these problems from a very practical viewpoint. Data on alcoholic intoxication has been reviewed, inherent problems involved in the establishment of intoxication in a specific individual are pointed out. The necessity of evaluating the performance of an individual in conjunction with laboratory data on the concentration of alcohol in the urine and expired air is emphasized in establishing the role of intoxication in a specific case.

This book would be of inestimable value to a physician, either as a general practitioner or as a specialist. Not only are specific problems reviewed, such as the establishment of the diagnosis of rape, abortion and the differential diagnosis of spontaneous and traumatic intracerebral hemorrhages, but how to present these problems to a court or jury, as either a factual or an expert witness, is discussed in Chapter 37.

The following advice is given for testifying: "The medical expert on cross-examination must not take offense or display annoyance at the manner of the opposing attorney. He should answer all questions without attempt at evasion. If the question requires an answer of yes or no, the witness should reply directly if the answer will not be misleading. If the question is framed in a way that the reply of either yes or no would be incorrect, the witness can only appeal to the judge to allow him to qualify his answer so that he will not be forced into making a false statement."

Implied but not stated in this book is an attempt by the authors to establish techniques by which scientific observations may be established in which justice may be established through a better liaison between the legal and the medical professions.

R. H. RIGDON, M.D.

University of Texas Medical Branch
Galveston, Texas

Manual for Effective New Mexico Legal Research, by Arie Poldervaart. Albuquerque: University of New Mexico Press, 1955. Pp. 135. \$1.50.

Arie Poldervaart is known to almost all of the members of the bench and bar of New Mexico. For many years the state librarian

at the Supreme Court in Santa Fe, and as a librarian and associate professor at the University of New Mexico College of Law since its founding, the author is no neophyte when it comes to the techniques of effective legal research. Add to this background, at least two other books, and numerous articles and book reviews contributed to various legal periodicals, and the author's competency becomes rather obvious. Even though there are a few faults to be found (and what work is completely free of all criticism), this book measures up to all of the expected high qualities.

Before going into details about the contents, I would like to interject a comment about one physical attribute of the book. I think that some measure of commendation is due the person who had enough sense to see that the volume was bound between paper covers rather than the usual cloth, notwithstanding what I am sure is the feeling that every author experiences, or harbors, concerning the appearance of his work. The paper covers, I take it, at least helped keep the final price of the book a modest \$1.50. Perhaps now the book will wind up in its logical location, the practitioner's library, rather than the second hand mart.

There are eight chapters in the book, all, except the first and last, dealing primarily with the traditional types of materials as they are used in researching New Mexico law. The first chapter, principally a bibliography, is devoted to the Spanish and Mexican law applicable to New Mexico. The last chapter is chiefly a short description of the Yale Law Library classification plan as modified for the Supreme Court Library at Santa Fe and the College of Law Library in Albuquerque, so that those using the facilities of these two places may quickly orient themselves. Included also is a list of sixty-three libraries "open to lawyers where legal New Mexican are available."

In Chapter II, "The Case Law of New Mexico," the author does a splendid job of explaining the basis of the confusion between the Gildersleeve and Johnson editions of the early New Mexico Reports. To facilitate this clarification, there is included a "Cross-Reference Table Between Gildersleeve and Johnson Editions of New Mexico Supreme Court Reports." In addition, Professor Poldervaart provides a rather thorough description of the features and contents of the New Mexico Reports and other sets containing decisional material relating to New Mexico. Students

and others intending to take the New Mexico bar examination would do well to check the latter portion of this chapter, for there will be found two lists: "New Mexico Cases Commented Upon in Legal Periodicals or Reported and Annotated in Special Subject and Annotated Report Series"; and, "Parallel Reference Table for New Mexico Cases Reported in *L.R.A.* and *A.L.R.*" Surely, a case worth noting in those publications is fair game for a bar examination.

Chapter III, "The Statutory Law," contains checklists of the Constitution of 1910, statutes and compilations, session laws, legislative journals and municipal codes and compiled ordinances. The availability of these materials is noted after each item by the use of numbers referring to the sixty-three libraries in New Mexico. This should prove to be a substantial boon to lawyers scattered throughout the state. Frequent use will undoubtedly also be made of the table of New Mexico statutes cited by popular name. Here one may find the popular name assigned to a particular law and its location in the session laws and statutory compilation. Where a particular law has been repealed, that fact has been noted.

In Chapter IV, "Digest, Encyclopedias, and Citators," I am somewhat surprised that no mention is made of *American Jurisprudence*. In fact, this set has seemingly escaped even passing notice, if a cursory examination of the text and index is any indication. Yet, surely this set, tied in as it is with *A.L.R.*, the *Lawyers' Edition of the Supreme Court Reports*, and Ballentine's *College Law Dictionary*, is as good a case finder as *Corpus Juris* and *Corpus Juris Secundum*, which is mentioned as a possible substitute when a New Mexico digest is not available. Certainly, attorneys having access only to *American Jurisprudence* and its relatives, and knowing how to use them, will agree.

Chapter V, "Rules of Court," is essentially a checklist of that material. In Chapter VI, "Executive and Administrative Materials," there are checklists of governors' messages and reports and opinions of the attorney general. Like the checklist of bar association materials in Chapter VII, "Miscellaneous Secondary Materials," all of these bibliographies identify the New Mexico libraries possessing copies of the items.

I am pleased to observe from my examination of the book that Professor Poldervaart has so successfully refrained from turning his volume into a full scale work on the

general principles of legal bibliography, although I daresay that the product would be very far from disappointing. Not only has the author been most expert in defining the limiting scope of his book, but he has been most scrupulous in restricting the number of words employed. Thus, while some fifty-one pages are actually devoted to terse text, the balance consisting of bibliographical data and the index, hardly anyone can claim that all of the necessary information has not been covered, notwithstanding my comments about *American Jurisprudence*. Moreover, in providing information and expert suggestions, based on his own experience and knowledge, concerning effective New Mexico legal research, Professor Poldervaart has supplied the reader with some tidbits of New Mexico legal history.

If this second in the series known as the University of New Mexico Publications in Social Sciences and Philosophy (the first was Poldervaart's *New Mexico and the Uniform State Laws*) is any indication, there are good works coming from Albuquerque!

MORTIMER SCHWARTZ

University of Oklahoma Law Library

American Law of Charter Parties and Ocean Bills of Lading, by Wharton Poor. Albany: Bender, 1954. Pp. viii, 455. \$10.00.

This fourth edition of the well-known treatise on charter parties and ocean bills of lading is by Mr. Poor, the author of the first edition and reviser of the second.

The changes made in the third edition have been for the most part omitted, and the wording of the second edition has been restored, with addition of recent cases. The division of the work into four chapters, dealing with the most common forms of ocean time charter and voyage charter constitute the first two chapters, and the third and fourth chapters deal respectively with demurrage and bills of lading. The principal changes made are an amplification of the discussion of arbitration under time charters and a rewriting of the text in the portions of the chapter on bills of lading dealing with the effects of the Harter Act and the Carriage-of-Goods-by-Sea Act.

To admiralty practitioners the work of Mr. Poor is well known, and to them it need be hardly noted that the work deals with the American law of charter parties and ocean bills of lading. No attempt is made to deal with the subject in the minuteness of Scrutton's *On Charter Parties and Bills of Lading*.

which a practitioner should also consult in connection with questions which arise.

The author, of course, incorporates in this new edition the time-saving device of adding as appendices examples of the charters treated and reprinting the principal cargo acts and the York-Antwerp Rules, 1950.

Mr. Poor's work is invaluable of course with respect to the ocean charters with which it deals. It should be observed, however, as the author indicates, that charters today are in numerous forms, and in time an additional treatment covering other forms, particularly commonly used inland marine forms, will be needed as the interpretive decisions grow.

ROBERT EIKEL

Houston, Texas

Grounds for Divorce in European Countries,
by Ervin Doroghi. New York: New School for Social Research, 1955 (Research Division Occasional Paper). Pp. 51. \$1.50.

Since students of comparative law are often handicapped by the lack of available materials, this publication should be well received. The author first traces the evolution of the European laws on divorce from the Roman law to the present time. He then discusses the grounds for divorce, the defenses

to divorce and the countries which prohibit divorce.

For western Europe, the grounds for divorce are discussed separately, and the countries which recognize each ground are grouped together in the discussion of that ground. The material on defenses is presented the same way; that is, by defenses rather than by countries. For Russia and its satellites, the material is presented by countries so that the entire law of each country is found in one place.

This paper is well written and, for its size, is very complete. Even the laws of Andorra and Liechtenstein are mentioned. However, the discussion of each ground for divorce is limited, and this paper is not well documented. This lack of citations is not significant since many readers would not have access to the relevant authorities, or if they were available, the readers would be unable to take advantage of them. Another defect is the lack of an index. Thus, a person must read all of the sections on grounds for divorce and defenses to determine the law of any country in western Europe. Even this defect is not serious in view of the size of the publication.

GEORGE B. FRASER

University of Oklahoma
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New Titles in Anglo-American Legal Periodicals¹

*Compiled by MEIRA G. PIMSLEUR, Order Librarian
Columbia University Law Library*

ADVOCATE. New York. v. 1, no. 1, April 1954* Pub: Bronx County Bar Association. *9 times a year, Oct.-June.*

ALIEN IN THE AMERICAN LAW; a monthly survey on legislation, literature and decision, by Dr. Sam Jadeson. Hollywood, Calif. v. 1, no. 1, April 1954* Pub: The Author. Mimeo.

AMERICAN BAR COORDINATOR. Chicago. v. 1, no. 1, July 15, 1953* Pub: Section of Bar Activities, Committee on Public Relations and Committee on Coordination of Bar Activities. *Semi-M.*

AMERICAN BAR RESEARCH CENTER. PUBLICATION. Chicago. no. 1, May 1954. (Not strictly a periodical. Comprises to date the following issues: Pt. 1. List of unpublished legal theses in American law schools. 1954. Pt. 2. List of current legal research projects in American law schools. 1954.)

1. This list supplements "Appendix III, Anglo-American Legal Periodicals," in **PRICE & BITNER, EFFECTIVE LEGAL RESEARCH** (1953). It includes new titles brought to our attention up to June 1, 1955. Where information was readily available we have indicated the latest volume known. In other cases we have given the first volume only. In cases where we do not have information pertaining to volume 1 we have written to the publishers. Information derived from them will be published in our next supplement. An asterisk (*) indicates a current publication. Appended to this list are changes and corrections to titles already listed in Price & Bitner. We invite criticisms and corrections as well as additions for inclusion in later supplements.

Supp. A. Academic year 1953-54. 1954.

ANTITRUST BULLETIN. New York. v. 1, no. 1, April 1955* Pub: Federal Legal Publications, Inc. *M* (except July-Aug.)

ARBITRATION LAW; a quarterly digest of court decisions with index of topics and of cases. New York. 4 v. May 1952-1955* Pub: American Arbitration Association.

ATENEO LAW JOURNAL. Manila. 4 v. (v. 2, no. 5 is March 1953)-Sept. 1954* Pub: College of Law, Ateneo de Manila. *Bi-M.*

BARRISTER. Coral Gables, Fla. 10 v. Feb. 25, 1949-April 1, 1955* Pub: University of Miami School of Law. Founded by Bar and Gavel Legal Society, University of Miami. v. 1, no. 1-v. 4, no. 5 (Feb. 25, 1949-Nov. 10, 1950) mimeographed. Dec. 1, 1950, first printed issue, has v. 1, no. 1. *Irreg.*

BRIEF CASE. San Francisco. 5 v. (v. 4, no. 3, is May 1954)-May 1955* Pub: Bar Association of San Francisco. *Bi-M.*

BRITISH JOURNAL OF ADMINISTRATIVE LAW. London. v. 1, no. 1, May 1954* Pub: Shaw & Sons. Subtitle: Incorporating the Administrative

Law Reports. (Reports are separately paged). *Q.*

BUSINESS LAW REVIEW; a journal of commercial law and practice. Ipswich, Suffolk, Eng. 2 v. Jan. 1954-Jan. 1955* Pub: Thames Bank Publishing Co. Ed., C. M. Schmitthoff.

Q.

BUTTERWORTH'S SOUTH AFRICAN LAW REVIEW. Durban. 1954* Pub: Butterworth. *A.*

CANADIAN TAX JOURNAL. Toronto. 3 v. 1953-1955* Pub: Canadian Tax Foundation. *Bi-M.*

CATHOLIC LAWYER. Brooklyn, N. Y. v. 1, no. 1, Jan. 1955* Pub: St. Thomas More Institute for Legal Research of St. John's University School of Law. *Q.*

COMMERCIAL LAW REVIEW; a monthly journal of the Commercial Law Institute. New Delhi, India. v. 1, no. 1, Jan. 1955* Pub: Ed. and pub. by K. Venkoba Rao. Printed by Janta Press, 38-H Connaught Circus. *M.*

CRIMINAL LAW REVIEW. London. [v. 1], Jan. 1954* Pub: Sweet & Maxwell. *M.*

CRIMINAL LAW REVIEW. New York. v. 1, no. 1, Spring, 1954* Pub: Association of Lawyers of the Criminal Courts of Manhattan. *A?*

CURRENT MEDICINE FOR ATTORNEYS. Brookline, Mass. 2 v. Sept. 1953-May 1955* Ed. by Theodore G. Echlov. *Q.*

DAYTON BAR BRIEFS. Dayton, O. 2 v. (v. 2, no. 1 is Jan. 1954)*? Pub: Dayton Bar Association.

DOCKET; official publication of the Student Bar Association. Albuquerque, N. M. v. 1, no. 1-4, Nov. 1952, April 24, Oct. 22, 1953, May 1, 1954* Pub: University of New Mexico College of Law. *Twice a Semester.*

EASTERN SCHOOL LAW REVIEW. Jersey City, N. J. 2 v. Nov. 1953-May 1955* Pub: School Law Review. *M.*

ESSEX BAR NEWS. Newark, N. J. 2 v. March 1953-March 1954* Pub: Essex Bar Association. *M.* (Oct.-May)

FOREIGN AFFAIRS REPORTS. Delhi. v. 1, no. 1, July/Aug. 1952* Pub: Indian Council of World Affairs in co-operation with Asian Relations Organization. (Distributed by Metropolitan Book Co. 1 Faiz Bazaar, Daryaganj, Delhi, India) *M.*

FRANCISCO COLLEGE LAW JOURNAL. Manila, P. I. v. 1, July/Sept. 1954* Pub: Francisco College. *Q.*

HOWARD LAW JOURNAL. Washington, D. C. v. 1, no. 1, Jan. 1955* Pub: Howard University School of Law. *Twice a year.* (Jan. & June)

IDAHO STATE BAR. NEWS BULLETIN. Boise. 4 v. Feb. 1952-March 1955* *Irreg.*

INTERNATIONAL BULLETIN OF INDUSTRIAL PROPERTY. *See RESEARCH, PATENTS & TRADEMARKS.*

INTERNATIONAL RELATIONS. London. 1 v. April 1954-April 1955* Pub: David Davies Memorial Institute of International Studies. *Semi-A.*

JOURNAL OF FORENSIC MEDICINE. Cape Town, S. A. 1 v. July/Sept. 1953-

Oct./Dec. 1954* Pub: Juta & Co. Q. (v. 1: 6 nos.)

JURISPRUDENCE; the lawyer's monthly magazine. Escolta, Manila, P. I. v. 1, no. 1, Sept.? 1953* Pub: G. V. Jacinto Publishing Co. M.

KERALA LAW TIMES. Continues **TRAVANCORE LAW TIMES**. (no further information available)

LAW REFERENCER. Delhi. no. 1, 1953*? Pub: Shankar Das Sekhri. M.

LAW REVIEW. Manila, P. I. 5 v. 1950-Sept./Oct. 1954* Pub: University of Santo Tomas, Faculty of Civil Law. 4 times a year.

LAW SCHOOL LIBRARY BULLETIN. Chicago, Ill. no. 1-4, Feb. 17, April 18, 1949, Feb. 22, 1950, April 19, 1951. Pub: Northwestern University.

LEGAL REGISTER FOR THE DISTRICT OF COLUMBIA. Washington, D. C. 1954-1955* Pub: Legal Register Publishing Co., Ed. by A. I. Robinson. A.

LOS ANGELES DAILY JOURNAL REPORTS. Los Angeles. 6 v. 1950-April 1955* "Taken from the regular issues of the Los Angeles Daily Journal." M.

LOUISIANA BAR JOURNAL. New Orleans. 2 v. July 1953-April 1955* Supersedes Louisiana Bar. Pub: Louisiana State Bar Association. Q.

MADRAS LAW WEEKLY. v. 1-65. 1914-1952*

MEDICAL TRIAL TECHNIQUE QUARTERLY. Chicago. Sept. 1954* Pub: Callaghan.

MEDICO-LEGAL REPORTER; a bi-weekly index-digest of recent cases and

medical articles pertaining to personal injury. Boston. v. 1, no. 1, June 1, 1955* Pub: Current Medicine for Attorneys.

NIMLO NEWS. Washington, D. C. v. 1, Aug. 1954* Pub: for the Annual Conference of the National Institute of Municipal Law Officers. A?

NEW JERSEY BRIEF. Newark. 2 v. Oct. 1952-Nov. 1953. Pub: Rutgers University School of Law. v. 1: 2 nos; v. 2: 1 no.

NEW MEXICO UNIVERSITY LAW SCHOOL STUDENT BAR ASSOCIATION THE DOCKET. See DOCKET.

NEW YORK LAW FORUM. New York v. 1, no. 1, March 1955* Pub: New York Law School. To be published March, May, July, Oct.

OBITER. London. 2 v. 1952/53-1953/54* Pub: London School of Economics, Law Society. Ed. by Michael Thomas.

PENSION AND PROFIT-SHARING PLANS. New York. Dec. 1952* Pub: Morss & Seal. M.

PLAINTIFF'S ADVOCATE. New York. 2 v. 1953-May 1955* (v. 1, no. 2 is Dec. 1953) Pub: New York State Association of Plaintiff's Trial Lawyers (New York branch of National Association of Claimants Compensation Attorneys). Irreg.

PRACTICAL LAWYER. Philadelphia. v. 1, no. 1, Jan. 1955* Pub: American Law Institute, Committee on Continuing Legal Education, collaborating with American Bar Association. M. (Oct.-May)

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REPORTER. Chicago. no. 1-9* (no. 9 is Jan. 1954) Pub: Northwestern University School of Law. Ed. by Students of Northwestern University School of Law under the sponsorship of Junior Bar Association. *2 issues a year.*

REPORTER. Paterson, N. J. v. (or liber) 16-38, Oct. 1952-Dec. 1954; v. 3, no. 9-v. 4, no. 12, Jan.-April 1955* Pub: Passaic County Bar Association. *Ten months in the year.*

RESEARCH, PATENTS & TRADEMARKS. New York. 4 v. April 1947-Sept./Dec. 1954* Pub: Research, Patents & Trademarks. Title, April 1947-Sept./Oct. 1953: International Bulletin of Industrial Property. *Bi-M.*

SCHOOL LAW REVIEW, EASTERN. *See* EASTERN SCHOOL LAW REVIEW.

SCHOOL OF LAW REVIEW. Toronto, Canada. v. 12 is Spring 1954*? Pub: University of Toronto. *A?*

STUDENT BAR ASSOCIATION, NEW MEXICO UNIVERSITY LAW SCHOOL. THE DOCKET. *See* DOCKET.

SYDNEY LAW REVIEW. Sydney, Australia. v. 1, 1953/55* Pub: University of Sydney Faculty of Law. Ed. by Julius Stone. *A.* (v. 1 has 3 nos., 1953, 1954, 1955 with combined t.p.)

TAX MEMO. Toronto. no. 1-4, Feb.-Nov. 1954* Pub: Canadian Tax Foundation. *Irreg.*

TEMPLE LAW REPORTER. Philadelphia. 2 v. March 1954-March 1955* Pub: Temple University School of Law. *M.*

TENNESSEE LAWYER. Nashville. 3 v. Sept. 1952-Feb. 1955* Pub: Bar Association of Tennessee. *Q* (v. 1, 2 nos., Sept., Nov./Dec. 1952)

THEMIS; Revue Juridique. Montreal. v. 1, no. 1-v. 5, no. 15. April 1951-Feb. 1955* Pub: University of Montreal. *Q.*

TOLEDO BAR ASSOCIATION NEWSLETTER. Toledo, O. 3 v. March 1952-May 1955* *M.* (with variations)

U.C.L.A. LAW REVIEW. Los Angeles. 2 v. Dec. 1953-Feb. 1955* Pub: University of California at Los Angeles, Students and Faculty of School of Law. Supersedes U.C.L.A. INTRAMURAL LAW REVIEW. *4 times a year.*

U M LAW GAZETTE. Manila, P. I. 4 v. (v. 3, no. 3 is Feb. 1954)-Oct. 1954* Pub: College of Law, University of Manila. *4 times a year.*

UNIVERSITY OF SAN CARLOS LAW REVIEW. Cebu City, P. I. no. 1, July/Sept. 1950*? *Q.*

VYAVAHAR NIRNAYA. Delhi, India. 3 v. March 1952-April 1954* Pub: Law Union, Faculty of Law, University of Delhi. v. 1: 1 no.; v. 2: 2 nos.; v. 3: 1 no.

WASHINGTON AND LEE LAWYER. Lexington, Va. 2 v. May 1953-1954* Pub: Washington and Lee Student Bar Association. *Semi-A?*

WAYNE LAW REVIEW. Detroit, Mich. v. 1, no. 1, Winter 1954* Pub: Wayne University Law School. *Winter, Spring, Summer.*

WEST VIRGINIA STATE BAR NEWS. Charleston. v. 1, 1955* *Bi-M.*

YALE LAW REPORT. New Haven, Conn. v. 1, no. 1, March? 1955* Pub: Alumni Association, Yale Law

School. Supersedes **YALE LAW SCHOOL ASSOCIATION. ALUMNI NEWS LETTER.** *Q.*

APPENDIX: CHANGES AND CORRECTIONS TO "APPENDIX III: ANGLO-AMERICAN LEGAL PERIODICALS" IN PRICE & BITNER, EFFECTIVE LEGAL RESEARCH (1953). THIS LIST IS CORRECTED TO JUNE 1, 1955.²

BILL OF RIGHTS REVIEW. New York. 2 v. Summer 1940-Summer 1942.

CIVIL SERVICE LAW REPORTER. N. Y. 4v. June 1951-1954* Pub: National Civil Service League. *M.*

CONVEYANCER. London. 21 v. Dec. 1915-June 1936. Superseded by **The Conveyancer and Property Lawyer.**

CURRENT PROPERTY LAW. *See JOURNAL OF PLANNING AND PROPERTY LAW.*

FEDERAL BAR NEWS. Washington, D. C. v. 1, no. 1-5; v. 1, no. 1-2. March 1952-April 1953; Oct. 1953-Nov. 1953. Pub: Federal Bar Assn., National Headquarters. *M. (Irreg.)*

FIDUCIARY REPORTER OF CURRENT DECISIONS ON WILLS, ESTATES AND TRUSTS. New York. Pub: Prentice-Hall. July/Dec. 1940-1955*.

JOURNAL OF PLANNING LAW. *See JOURNAL OF PLANNING AND PROPERTY LAW.*

JOURNAL OF PLANNING AND PROPERTY LAW. London. 7 v. April 1948-April 1955* April 1948-1953 as **JOURNAL OF PLANNING LAW.** Jan. 1954 combined with **CURRENT PROPERTY LAW** to form **JOURNAL OF PLANNING AND**

2. We have not repeated the entire statement given originally in Price & Bitner, except where necessary for completeness or accuracy. Where feasible we have indicated the changes made in bold face type.

PROPERTY LAW. (Volumes not numbered) *M.*

KANSAS LAW REVIEW. *See UNIVERSITY OF KANSAS LAW REVIEW.*³

LABOUR LAW JOURNAL. Bangalore. v. 1, April, 1949*. Pub: Institute of Industrial Relations.

LAW NOTES. Northport, N. Y. 50 v. April 1897-May 1946. v. 37, no. 12 incorrectly numbered v. 36, no. 56.

LAWYERS' SCRAP BOOK. New York. 2 v. 1909-1913. (v. 2, no. 6 is 1913)

LEGAL NOTES. *See UNIVERSITY OF BRITISH COLUMBIA LEGAL NOTES.*³

LOUISIANA BAR; official publication of Louisiana State Bar Association. 12 v. Jan. 1942-April 1953. Superseded by **Louisiana Bar Journal.** *Q.*

MADRAS LAW JOURNAL AND REPORTS. 101 v. 1891-1951*

MADRAS WEEKLY NOTES. 43 v. 1910-1952*

MEDICO-LEGAL JOURNAL. Pub: Medico-Legal Society of the City of New York.

MODERN LAW REVIEW. London. 17 v. June 1937-1954* *Bi-M.* 1954

MONTHLY LAW BULLETIN (N. Y.) *See*

3. Entries are in Price & Bitner. Cross references here given were found to be necessary to facilitate finding the entry.

NEW YORK MONTHLY LAW BULLETIN.³

MONTHLY LAW RECORD (N. Y.) *See* NEW YORK MONTHLY LAW RECORD.³

NATIONAL BAR JOURNAL. 10 v. July 1941-1953. v. 8-10: 1 no. each.

NEW YORK LAW REVIEW. Ithaca. 1 v. Jan.-July 1895.

NEW YORK LAW REVIEW. New York. 7 v. Jan. 1923-May 1929. Merged with AMERICAN LAW REVIEW, vol. 63, no. 3, July 1929, to form UNITED STATES LAW REVIEW (v. 74 of UNITED STATES LAW REVIEW is again entitled NEW YORK LAW REVIEW). *See also* UNITED STATES LAW REVIEW.

NEW YORK UNIVERSITY LAW REVIEW. Title varies: v. 1, ANNUAL REVIEW OF THE LAW SCHOOL OF NEW YORK UNIVERSITY; v. 2-6, NEW YORK UNIVERSITY LAW REVIEW; v.7-24, NEW YORK UNIVERSITY LAW QUARTERLY REVIEW; v. 25, Jan. 1950- present title. None published June 1942-April 1944.

NORTHWESTERN UNIVERSITY LAW REVIEW. Chicago. 49 v. May 1906-1954*. Vol. 19-46 edited jointly by the Law Schools, University of Chicago, University of Illinois and Northwestern University. Beginning v. 47 (and before v. 19) edited by Northwestern University School of Law.

PHILIPPINE LAW JOURNAL. *M.* during academic year, v. 1-21 (1915-1941) except v. 6 which had 5 nos.; *Bi-M.* during academic year, v. 22-25 (1947-1950); *Q.* v. 26 (1951); 6 times a year, v. 27-(1952-). Suspended publication Dec. 1919-Aug. 1927, 1942-1946.

ROCKY MOUNTAIN LAW REVIEW. 5 times a year (4 times a year v. 1-25 (1928-1952/53)

RUTGERS LAW REVIEW. Newark, N. J. 8 v. Spring 1947-1953/54* Title, v. 1-2: RUTGERS UNIVERSITY LAW REVIEW. Absorbed NEW JERSEY LAW REVIEW, MERCER BEASLEY LAW REVIEW, UNIVERSITY OF NEWARK LAW REVIEW. 3 times during academic year (v. 1-3, *Semi-A.*)

RUTGERS UNIVERSITY LAW REVIEW. *See* RUTGERS LAW REVIEW.

TRAVANCORE LAW TIMES. 12? v. Aug./Sept. 1926-1949. Continued by Kerala Law Times.

U.C.L.A. INTRAMURAL LAW REVIEW. Los Angeles, Calif. 3 nos., June 1952, March, July 1953. Superseded by U.C.L.A. Law Review.

UNITED STATES LAW REVIEW. New York. 74 v. Oct. 1866-Dec. 1940. Title, v. 1-63, no. 2: AMERICAN LAW REVIEW. Vol. 63, no. 3 combined with NEW YORK LAW REVIEW (q.v.) to form UNITED STATES LAW REVIEW. Vol. 74 again has title NEW YORK LAW REVIEW. With AMERICAN LAW REVIEW were combined SOUTHERN LAW REVIEW (1883), WESTERN JURIST (1884), and NEW YORK LAW REVIEW (1929).

VANDERBILT LAW REVIEW. 7 v. Dec. 1947-Aug. 1954* 5 times a year (v. 1-5, 4 times a year).

YALE LAW SCHOOL ASSOCIATION. ALUMNI NEWSLETTER. New Haven. 7 v. Dec. 1948-Aug. 1954? (v. 7 has 1 no.) Superseded by Yale Law Report.

CURRENT PUBLICATIONS

by JEAN ASHMAN AND DOROTHY SCARBOROUGH, *Joint Editors*

The Editors acknowledge with thanks the assistance of the various libraries and publishers and will appreciate their continued co-operation in supplying information.

By the kind permission of the West Publishing Company, the classification here used is based upon the system followed by them in the American and Decennial Digests.

Accounts and accounting

Blattmachr, G. G. and Knapp, R. S. Accounting periods and accounting methods. March, 1955. New York, Practising Law Institute, 1955. 110p. \$2.00 (Paper)
Katz, W. G. Introduction to accounting. Chicago, Callaghan, 1954. 236p. \$6.50.

Administration of justice

Association of the Bar of the City of New York. Special Committee on Studies and Surveys of the Administration of Justice. Bad housekeeping; the administration of the New York courts. New York, The Author, 1955? 159p. Apply.
Mayers, Lewis. The American legal system. New York, Harper, 1955. 589p. \$6.50.

Administrative Law

U. S. Library of Congress. Legislative Reference Service. Compilation with citations of executive departments and agencies which publish, enforce, or adhere to rules of practice and procedure with respect to hearings, adjudications, or licensing. Washington, Govt. Print. Off., 1954. Price?

Aeronautics

Drion, Huibert. Limitation of liabilities in international air law. The Hague, Nijhoff, 1954. 389p. Gld. 24.50.

Aliens

Jadeson, Sam. The alien in the American law; a monthly survey on legislation, literature and decisions. Vol. 1, No. 1. April 1954. Hollywood, Calif. (1027 N. Genesee Ave.), The Author, 1954. \$12.00 per year. (Mimeo.)

Appeal and error

Goodrich, H. F. A case on appeal, a judge's view. Conduct of the appeal, a lawyer's

view, by R. M. Carson. The Argument of an appeal, by J. W. Davis. October 1954. Phila., Committee on Continuing Legal Education, American Law Institute, 1954. 100p. \$2.50.

Attorneys

Taylor, C. W., Jr. Eminent judges and lawyers of the Northwest, 1843-1955. Palo Alto, Calif. (2898 Louis Road), The Author, 1954. 505p. \$10.00.

Automobile insurance

Ehrenzweig, A. A. "Full aid" insurance for the traffic victim: a voluntary compensation plan. Berkeley, Univ. of California Press, 1954. 72p. \$2.00.

Bankruptcy

Collier, W. M. Bankruptcy manual. 2d ed. Albany, Bender, 1954. 1736p. \$27.50. (Loose-leaf) (Condensed from the 9 vols. Treatise)

Basutoland

Shedrick, V. G. J. Land tenure in Basutoland. London, H.M. Stat. Off., 1954. 196p. 25s. (Colonial research study, no. 13)

Bibliography

Philippines. University. Institute of Public Administration. An annotated Philippine legal bibliography. By Leticia Pacis-Nebrida and Avelino P. Tendero. Manila, The University, 1954. 37p. Apply.

Poldervaart, Arie. Manual for effective New Mexico legal research. Albuquerque, N. M., Univ. of New Mexico Publications, 1955. 135p. \$1.50. (Paper)

Tennessee Valley Authority. Library. Congressional hearings, reports, and documents relating to TVA, 1933-52, compiled by A. M. Norwood. Knoxville, Tenn., TVA, 1954. 74p. Apply.

Biography

Morgan, D. G. Justice William Johnson, the first dissenter; the career and constitutional philosophy of a Jeffersonian judge. Columbia, Univ. of South Carolina Press, 1954. 326p. \$6.50.

Who's who in library service; a biographical directory of professional librarians of the United States and Canada. Ed. by D. E. Cole. New York, Grolier Society, 1955. 546p. \$6.00.

Brazil

Nabuco, J. T. A statement of the laws of Brazil in matters affecting business. 2d ed. rev. and enl. Washington, Pan American Union, 1955. 158p. \$5.00. (Paper)

Business

Glover, J. D. The attack on big business. Boston, Harvard Business School, Div. of Research, 1954. 375p. \$4.00.

State Bar of California. Committee on Continuing Education of the Bar. Organizing and advising small business enterprises. Berkeley, Univ. of California, University Extension, 1954. 301p. Price?

Charities

Newman, E. S. Law of philanthropy. New York, Oceana, 1955. 96p. \$2.00. (Paper \$1.00) (Legal almanac ser., no. 38)

Church and state

Brady, J. H. Confusion twice confounded; the First Amendment and the Supreme Court, an historical study. South Orange, N. J., Seton Hall Univ. Press, 1954. 192p. \$3.00.

Collective bargaining

Golden, C. S. and Parker, V. D., eds. Causes of industrial peace under collective bargaining. New York, Harper, 1955. 369p. \$4.75. (Developed, with additions, from 14 nos. of same title issued Sept. 1948—Dec. 1953)

Commercial law

Mexico. Laws, statutes, etc. Commercial code. Mexico, D. F. (Plaza de la República, 49, Depto, 202), Traducciones, 1954. \$16.00.

Missouri. General Assembly. Committee on Legislative Research. Proposed uniform commercial code: its effect upon cognate Missouri statutes. Jefferson City, The Author, 1954. 330p. Apply. (Paper)

Stevens, T. M. Elements of mercantile law. 12th ed. by John Montgomerie. London, Butterworth, 1955. 17s6d.

Communication and traffic

Summer Institute on International and Comparative Law, University of Michigan, 1954. Communications media; legal

and policy problems. Ann Arbor, Univ. of Michigan Law School, 1954. 234p. \$5.00.

Conflict of laws

Pan American Union. Comparative study of the Bustamante code, the Montevideo treaties, and the restatement of the law of conflict of laws. Washington, The Author, 1954. 182p. \$1.00.

Constitutional law

Beaney, W. M. Right to counsel in American courts. Ann Arbor, Univ. of Michigan Press, 1955. 268p. \$4.50.

Gough, J. W. Fundamental law in English constitutional history. New York, Oxford Univ. Press, 1955. 229p. \$4.00.

Constitutional history

Powell, W. S. The Carolina charter of 1663, how it came to North Carolina and its place in history. Raleigh, State Dept. of Archives and History, 1954. 79p. \$2.00.

Smith, G. A. A constitutional and legal history of England. New York, Scribner, 1955. 564p. \$5.50.

Contracts

Chitty, Joseph. Chitty on contracts. 21st ed. London, Sweet & Maxwell, 1955. 2v. £7 5s. (The common law library)

Mandel, Ludwig. The preparation of commercial agreements. New York, Practising Law Institute, 1955. 100p. \$2.00.

Conveyances and conveyancing

Canadian conveyancing and commercial forms. Vol. 1. Toronto, Carswell, 1954. \$17.00. (To be complete in 8 vols.)

Copyright

American Society of Composers, Authors, and Publishers. Copyright law symposium, No. 6. Nathan Burkan Memorial Competition. New York, Columbia Univ. Press, 1955. 186p. \$3.50.

Howell, H. A. Copyrights. Rev. to December 1954 by Paul Gitlin. New York, Practising Law Institute, 1954. 82p. \$2.00.

Practising Law Institute. Outlines of lectures and other materials for course on current problems in trade-mark and copyright law. New York, Practising Law Institute, 1954. var. pag. \$5.00. (13th annual summer session)

Rothenberg, Stanley. Copyright and public performance of music. The Hague, Nijhoff, 1954. 188p. Gld. 12.50.

Corporations

Emerson, F. D. and Latcham, F. C. Shareholder democracy; a broader outlook for corporations. Cleveland, Press of Western Reserve Univ., 1954. 242p. \$4.00.

Farrar, Harry. *Company law*. 4th ed. London, Cassell, 1955. 653p. 15s.

Oleck, H. L. *New York corporations; State, Federal, administrative, and private law, regulation and procedure, with forms*. New York (150 Nassau St.), Robert Slater Co., 1954. 1921p. \$22.50. (Loose-leaf)

Costa Rica

Gurdián, Raúl and Zurcher, Harry. *Statement of the laws of Costa Rica in matters affecting business*. 2d ed. rev. and enl. by T. W. Gannett. Washington, Pan American Union, 1954. 118p. \$5.00. (Paper)

Court records

New York (State) *Court of Appeals. Records and briefs, beginning January 1, 1955*. Microcard ed. Albany, Bender, 1955. \$0.25 per Microcard. (Estimated price for year \$400.00)

Court rules

Texas. *Supreme Court. Vernon's Texas rules of civil procedure*, by J. F. Franki. Kansas City, Vernon, 1955. 4v. \$60.00.

U. S. *Supreme Court. Federal rules of criminal procedure*. 1955 rev. ed. St. Paul, West, 1955. 584p. \$5.00. (Paper)

Courts-martial

Aycock, W. B. and Wurfel, S. W. *Military law under the Uniform code of military justice*. Chapel Hill, Univ. of North Carolina Press, 1955. 430p. \$7.50.

Crime and criminals

Sutherland, E. H. *Principles of criminology*. 5th ed. rev. by D. R. Cressey. Philadelphia, Lippincott, 1955. 646p. \$6.00.

Criminal law

Adkins, J. C., Jr. *Florida criminal law and procedure, annotated, with forms*. Rev. & enl. ed. Atlanta, Harrison, 1954. 853p. \$20.00.

Harris, S. F. *Criminal law*. 19th ed. by H. A. and Henry Palmer. London, Sweet & Maxwell, 1954. 708p. 32s6d.

McGee, M. C. *Criminal procedure in Alabama*. University, Ala., Univ. of Alabama Press, 1954. 221p. \$5.50.

Damages

Kemp, D. A. M. and Kemp, M. S. *The quantum of damages in personal injury claims*. London, Sweet & Maxwell, 1954. 462p. 35s.

Walker, D. M. *The law of damages in Scotland*. Edinburgh, W. Green & Sons, 1955. 843p. £6 6s.

Descent and distribution

Reppy, Alison. *Ordinance of William the Conqueror (1072); its implication in the*

modern law of succession

New York, Oceana, 1955. 122p. \$2.50.

Dictionary

Radin, Max. *Radin law dictionary*. New York, Oceana, 1955. 416p. \$8.00.

Sell, L. L. *English-Spanish comprehensive specialist's dictionary for finance, law, labor, etc.* New York (15 Park Row), International Dictionary Co., 1955. 536p. \$9.00.

Digests

West's *New Jersey digest*. Vols. 1-9. Newark, N. J., Soney & Sage, 1954. \$10.00 per vol. (To be complete in 35 vols.)

Discrimination in education

North Carolina. University. Institute of Government. *The school segregation decision; a report to the Governor of North Carolina on the decision of the Supreme Court of the United States*. By Albert Coates and J. C. N. Paul. Chapel Hill, The Institute, 1954. 132p. \$2.00.

Divorce

Doroghi, Ervin. *Grounds for divorce in European countries*. New York (66 Fifth Ave.), Research Division of the New School for Social Research, 1955. 51p. \$1.50.

Documents

Baker, J. N. *Law of disputed and forged documents*. Charlottesville, Michie, 1955. 560p. \$15.00.

Drugs and druggists

Arthur, W. R. *Law of drugs and druggists*. 4th ed. St. Paul, West, 1955. \$6.00.

Christopher, T. W. and Dunn, C. W., eds. *Special Federal food and drug laws; statutes, regulations, legislative history, annotated*. Chicago, Commerce Clearing House, 1954. 1334p. \$17.50.

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